

TITLE 20

OF THE

SAN JOSE MUNICIPAL CODE

ZONING ORDINANCE

CITY OF SAN JOSE, CALIFORNIA

This edition incorporates all ordinances amending Title 20 of the San Jose Municipal Code through Number 27468, effective July 27, 2005. An official record of all City ordinances is maintained by the City Clerk.

Zoning regulations are occasionally subject to change. A list of Title 20 ordinance changes, which may have occurred since this edition was printed, is available from the Department of Planning, Building, and Code Enforcement. An inquiry should be made to the Department regarding possible recent ordinance changes prior to embarking on undertakings covered by these regulations.

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CHAPTER 20.10

GENERAL PROVISIONS & ZONING DISTRICTS

20.10.010 Title

This Title may be cited as the San Jose Zoning Code or the San Jose Zoning Ordinance.

20.10.020 Purpose

The purpose of this Title is to promote and protect the public peace, health, safety, and general welfare, and in furtherance of the foregoing to do the following:

1. To guide, control, and regulate future growth and development in the City in a sound and orderly manner, and to promote achievement of the goals and purposes of the San Jose General Plan;
2. To protect the character and economic and social stability of agricultural, residential, commercial, industrial, and other areas in the City;
3. To provide light, air, and privacy to property;
4. To preserve and provide open space and prevent overcrowding of the land;
5. To appropriately regulate the concentration of population;
6. To provide access to property and prevent undue interference with and hazards to traffic on public rights-of-way; and
7. To prevent unwarranted deterioration of the environment and to promote a balanced ecology.

20.10.030 Compliance Required

No person shall use, allow or suffer the use of any land, building or structure except in strict compliance with the provisions of this Title 20, including the development and performance standards herein, and any Permit issued pursuant hereto. The temporary or transitory nature of a use does not exempt it from this requirement.

20.10.040 Interpretation

In interpreting and applying the provisions of this Title, they shall be held to be for the purpose of promoting the public safety, health, convenience, comfort, prosperity, or general welfare of the community. It is not intended by this Title to interfere with or abrogate or annul any easements,

covenants or other agreements between parties, provided, however, that where this Title imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces than are imposed or required by other ordinances, rules, regulations or by easements, covenants or agreements, the provisions of this Title shall govern.

20.10.050 Injunctive Relief

- A. Any use of property contrary to the provisions of this Title or any condition of a Permit imposed pursuant to this Title shall be, and is hereby declared to be, unlawful and a public nuisance. In any action with regard to such use, the City may apply to any court having jurisdiction for any relief as will abate or remove such use and restrain any person, firm or corporation from using any property contrary to the provisions of this Title.
- B. This Title may be enforced by an injunction issued out of the Superior Court upon suit by the City or the owner or occupant of any real property affected by such violation or prospective violation.

20.10.060 Zoning Districts Established

- A. In order to regulate and restrict the location of residences, professions, businesses, trades, and industries, to regulate and restrict the location, height, and size of buildings and structures hereafter erected, enlarged or altered, and to regulate and determine the area, depth, and width of yards, setback areas, and other open spaces, the following classes of City zoning districts are hereby established, as set forth in Table 20-10:

Table 20-10 City Zoning Districts		
Zoning District	Zoning Map Symbol	Alternative Zoning Map Symbol
OS Open Space	OS	OS
A Agricultural	A	A
Rural Residential Residence District (1 DU/5 Acres)	R-1-RR	None
R-1-1 Residence District (1 DU/Acre)	R-1-1	R-1-B-3
R-1-2 Residence District (2 DU/Acre)	R-1-2	R-1-B-2
R-1-5 Residence District (5 DU/Acre)	R-1-5	R-1-B-8, R-1-B-1
R-1-8 Residence District (8 DU/Acre)	R-1-8	R-1, R-1-B-6
R-2 Residence District (2 DU/Lot)	R-2	R-2
R-M Residence District (Multiple Unit/Lot)	R-M	R-3, R-3-F, R-3-A, R-3-B, R-3-C, R-4
R-MH District (mobilehome parks, travel trailer parks)	R-MH	T-M
CO Office Commercial District	CO	C-L, C
CP Pedestrian Commercial District	CP	C-1

Cont. on next page

Table 20-10 City Zoning Districts		
Zoning District	Zoning Map Symbol	Alternative Zoning Map Symbol
CN Neighborhood Commercial District	CN	C-2
CG General Commercial District	CG	C-3
IP Industrial Park District	IP	L-R, IP-a, IP-b, IP-c, IP-d, I
LI Light Industrial District	LI	M-1
HI Heavy Industrial District	HI	M-4

The foregoing zoning districts are listed in descending order of restrictiveness, that is, with the most restrictive district listed first and the least restrictive district listed last.

- B. In addition, the following special zoning districts are established as set forth in Table 20-20. The application of these districts is limited to specific geographic areas of the City as set forth in Section 20.70.010.

Table 20-20 Special Zoning Districts	
Zoning District	Zoning Map Symbol
DC Downtown Primary Commercial	DC
DC-NT1 Downtown Commercial Neighborhood Transition 1	DC-NT1

20.10.070 Planned Development District

- A. The Planned Development District is hereby established as a City zoning district classification. It may be referred to as Planned Development Zone, Planned Development District or as PD District or PD Zone.
- B. Every PD District shall be combined with an alternative base zoning district or districts. Any zoning district set forth in Section 20.10.060 may be utilized as a base district. The zone shall be referred to by the symbol for its base district followed by its Planned District designation (e.g., A(PD)).
- C. The PD District shall be individually designed to meet the needs of the territory so zoned. It shall be adopted by a zoning ordinance which incorporates by reference a General Development Plan for the entirety of the subject property. The General Development Plan shall include drawings and text as specified in Section 20.120.510.
- D. Development of the subject property can hereafter occur only pursuant to an effective PD Permit issued in strict conformity with the adopted General Development Plan or alternatively, in accordance with requirements for the base district if one exists.

- E. Under no circumstances shall the City ever be required to issue a PD Permit. The discretion to grant or deny such Permit is untrammelled and nothing contained in this Title shall be deemed or construed to limit this discretion in any way whatsoever. Unless and until a PD Permit has been issued and becomes effective, the subject territory may be used only as if it were situate in the base district alone.

20.10.080 City Divided into Zones

- A. All territory in the City has been divided into zoning districts shown on the official zoning maps maintained in the office of the Director as modified and supplemented by individual zoning district maps and ordinances.
- B. Amendments to the existing zones shall be made by ordinances adopted as provided in Chapter 20.120 of this Title. Such amendments shall not be included in the codified San Jose Municipal Code but such ordinances shall amend the zoning districts and shall be deemed incorporated into the official maps as if fully set forth therein.
- C. Any property located in the City that has not been specifically designated with a particular zoning district is hereby deemed to be zoned A-Agriculture.

20.10.090 District Boundaries

Where the boundaries of a district are not clearly identifiable, the following rules of interpretation shall apply:

1. The boundary of a district is the center line of the street unless otherwise clearly delineated.
2. The boundaries shall be deemed to be on the property line wherever it appears to be on the line.

20.10.100 Fees

Unless specifically otherwise indicated or prohibited by ordinance of the City Council or by applicable law, the Director of Planning shall be authorized to charge a fee as set forth in and in the manner described in a resolution adopted by the City Council for each and every permit, accommodation, process or other authorization to be administered by the Director under this Title, which fee shall not exceed the costs incurred by the City in processing and providing the permit, accommodation, process or other authorization.

CHAPTER 20.20

OPEN SPACE & AGRICULTURAL ZONING DISTRICTS

Part 1 General

20.20.010 Open Space and Agricultural Zoning Districts

- A. This Chapter sets forth the land use and development regulations applicable to the Open Space and Agricultural Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the OS Open Space and A Agricultural Districts except as set forth in this Chapter.
- C. The purposes of the Open Space and Agriculture Zoning Districts are as follows:

- 1. OS Open Space District

The purpose of the OS Open Space District is to provide for the public peace, health, safety, and welfare by conserving open space to insure the continued availability of land for the preservation of natural resources, for the managed production of resources, for outdoor recreation, and for the enjoyment of scenic resources, and by protecting the people and property in the City of San Jose against physical environmental hazards. The regulations contained in the OS District are designed to enhance the scenic a visual qualities of the land as well as to implement the Open Space and Hillside policies of the San Jose 2020 General Plan.

- 2. A Agricultural District

The purpose of the A Agricultural District is to provide for areas where agricultural uses are desirable. The regulations contained in this district are intended to provide for a wide range of agricultural uses as well as implementing the goals and policies of the San Jose 2020 General Plan.

Part 2 Use Regulations

20.20.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-30.
- B. “Conditional” uses are indicated by a “C” on Table 20-30. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. Land uses not Permitted are indicated by a “-” on Table 20-30. Land uses not listed on Table 20-30 are not Permitted.
- D. When the right column of Table 20-30 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title and any other Title of the San Jose Municipal Code.

Table 20-30 OS Open Space and A Agricultural District Land Use Regulations			
Use	Zoning District		Applicable Section & Notes
	OS	A	
Agriculture and Resource Uses			
Animal breeding (except fish, frogs, rabbits, poultry and hogs)	P	P	Note 1
Animal breeding (fish, frogs, rabbits, poultry and hogs)	C	P	Note 1
Any use or improvement for the conservation of water, reclamation and erosion control	P	P	Note 1
Botanical conservatories, nature garden, nature study areas, and similar uses not within greenhouses or structures	P	-	Note 1
Dairies	P	P	Note 1
Extraction of chemicals from water by natural evaporation	C	-	Note 1
Extraction of minerals from the ground, including quarrying	C	-	Note 1
Filling or removal of earth, including grading	C	-	Note 1
Grazing	P	P	Note 1
Livestock ranch, excluding hogs	P	P	
Livestock ranch, hogs	C	C	
Natural Resource Preservation / Reservation	P	-	Note 1
Pasture	P	P	Note 1
Planting, cultivating, growing, harvesting and drying of crops	C	P	Note 1
Tree farms and forestlands	C	C	Note 1

Continued on Next Page

Table 20-30 OS Open Space and A Agricultural District Land Use Regulations			
Use	Zoning District		Applicable Section & Notes
	OS	A	
Wholesale sale of any animals, articles, wares, goods merchandise, or commodities produced on-site in the conduct of any Permitted or Conditional Use	C	C	Note 1
Wildlife refuge	P	-	Note 1
Education and Training			
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	Note 1
Educational, charitable, and philanthropic activities that provide environmental and nature related services/education and are dedicated to the protection and preservation of the environment and/or rural and landscape preservation	C	-	Note 1
Entertainment and Recreation			
Equestrian and riding club	C	C	Note 1
Golf Course	C	-	Notes 1, 2
Marinas and other uses and facilities incidental to water recreation	C	-	Note 1
Shooting range	C	-	Note 1
Trails and paths, including equestrian, pedestrian and bicycle	P	P	Note 1
Public, Quasi-Public and Assembly Uses			
Community television antenna systems	-	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	Note 1
Wireless communication antenna	C	C	Note 1, Section 20.100.1300
Wireless communication antenna, slimline pole	C	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	Note 1, Section 20.80.1910
Residential Uses			
One-family dwelling	C	C	Note 1, Note 3, Section 20.30.110
Home occupations	P	P	Part 9, Chapter 20.80
Temporary farm labor camp necessary to the gathering of crops grown on the site	-	C	
Electrical Power Generation			
Stand-By/Backup			
Facilities that do not exceed noise or air standards	S	S	
Facilities that do exceed noise or air standards	C	C	
Photovoltaic	P	P	Note 4

Notes:

1. The erection, enlargement, structural alteration, or use of any building or structure for any Permitted or Conditional Use in the OS Open Space District requires the issuance of a Conditional Use Permit.

2. Clubhouses, pro shops, snack shops, restaurants, bars, and driving ranges may be operated in conjunction with, but not independent of, the golf course. "Miniature golf courses" are not allowed.
3. A one-family dwelling may be used for a Residential Care Facility or Residential Service Facility for six (6) or fewer residents. No services may be provided to non-residents.
4. Photovoltaic (PV) systems in the OS and A zoning districts may be processed through a Permit Adjustment. PV systems for single-family lots do not require a Planning approval.

Part 3 Development Regulations

20.20.200 Development Standards

All development in the OS Open Space and A Agricultural Districts shall conform to the development regulations set forth below in Table 20-40.

Table 20-40 OS Open Space and A Agricultural District Development Standards		
Regulations	Zoning District	
	OS	A
Minimum Lot Area	20 acres	20 acres
Setbacks (feet)		
From abutting streets and highways	50	50
From abutting property zoned or used for residential purposes	300	300
From abutting property zoned or used for other than residential purposes	50	50
Maximum Height	35	35
Maximum Floor Area Ratio	none	.80
Parking	See Chapter 20.90	See Chapter 20.90

20.20.210 Minimum Lot Area - Exceptions

The minimum area of a lot or parcel whose area, as shown on a final subdivision map approved by the City prior to February 19, 2001, is less than 20 acres shall be the area shown for such lot or parcel on such subdivision map.

20.20.220 Maximum Height - Exceptions

In the A Agricultural District the maximum height of a chimney, weather vane or other similar architectural embellishment mounted on a building and having a horizontal cross section of no

more than twenty (20) square feet may be increased to forty (40) feet provided that it does not exceed the height of the building on which it is mounted by more than five (5) feet.

20.20.230 Setback-- Exception

- A. The Director may grant a reduction in the minimum required setback from an abutting property zoned or used for residential purposes for additions to existing structures or new structures on a lot located in either the A-Agriculture or OS-Open Space Zoning District if the Director finds that granting the reduction in the minimum required setback would not impair the utility or value of adjacent property or the general welfare of the neighborhood and, in addition, finds that the proposal meets all of the following criteria:
1. The subject site or lot:
 - (a) Is located adjacent to a residentially zoned property or is located next to a residential use; and
 - (b) Has substantial existing development on the subject site; and
 2. The sizes of any and all additions or structures to be added to the subject site or lot shall not exceed fifty percent (50%) of the square footage of the existing structures on the subject site or lot and for which development permits were obtained prior to February 19, 2001; and
 3. The aggregate total square footage of all additions or new structures to be added to the subject site or lot shall not exceed fifty percent (50%) of the square footage of the existing structures on the subject site or lot as of February 19, 2001; and
 4. Any addition or structure to be added to the subject site or lot shall not significantly diminish the existing, legal nonconforming setback, and, in any event, no addition or structure to be added to the subject site or lot shall reduce a setback to less than fifty (50) feet; and
 5. Any new addition or structure shall not exceed the height of existing structures located on the subject site or lot, or the maximum height allowance established pursuant to this Title for the Zoning District, whichever height is less.

Part 4

Performance Standards

20.20.300 Performance Standards

- A. In the OS Open Space and A Agricultural Districts, no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.

- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Open Space and Agricultural Zoning Districts:

1. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

2. Noise

The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-45 at any property line, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-45	
Additional Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Open Space or Agricultural use adjacent to a property used or zoned for residential purposes	55
Open Space or Agricultural use adjacent to a property used or zoned for commercial purposes	60
Open Space or Agricultural use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

3. Vibration

There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

CHAPTER 20.30

RESIDENTIAL ZONING DISTRICTS

Part 1 General

20.30.010 Residential Zoning Districts

- A. This Chapter sets forth the land use and development regulations applicable to the Residential Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the R-1, R-2, R-M, and R-MH Residential Districts except as set forth in this Chapter.

C. The purposes of the Residential Districts are as follows:

1. R-1 Single-Family Residence District

The purpose of the single-family residence district is to reserve land for the construction, use and occupancy of single-family subdivisions. The allowable density range for the R-1 Districts is 1 to 8 dwelling units per acre.

2. R-2 Two-Family Residence District

The purpose of the two-family residence district is to reserve land for the construction, use and occupancy of single-family and two-family subdivisions. The allowable density range for the R-2 District is 8 to 14.5 dwelling units per acre.

3. R-M Multiple Residence District

The purpose of the multiple residence district is to reserve land for the construction, use and occupancy of higher density residential development. The maximum allowable density range for the R-M District is 25 dwelling units per acre.

4. R-MH Mobilehome Park District

The purpose of the mobilehome park district is to reserve land for the construction, use and occupancy of mobilehome development.

Part 2 Uses Allowed

20.30.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-50.
- B. “Conditional” uses are indicated by a “C” on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. “Special” uses are indicated by a “S” on Table 20-50. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. Land uses not Permitted are indicated by a “-” on Table 20-50. Land uses not listed on Table 20-50 are not Permitted.
- E. When the right column of Table 20-50 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Residential Uses					
One-family dwelling	P	P	P	C	Note 1, Section 20.30.110
Two-family dwelling	-	P	P	-	Note 2, Section 20.30.110
Multiple dwelling	-	-	P	-	
Guesthouse	-	-	C	-	Section 20.30.120
Mobilehome Parks	-	-	-	P	
Travel Trailer Parks	-	-	-	C	
Residential Care Facility, six or fewer persons	P	P	P	P	
Residential Care Facility, seven or more persons	-	-	C	C	
Residential Service Facility, six or fewer persons	P	P	P	P	
Residential Service Facility, seven or more persons	-	-	C	C	
Servants quarters attached to a one-family dwelling or attached to a garage structure	P	-	-	-	Note 3

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	-	-	C	-	
Single Room Occupancy Living Unit	-	-	C	-	Part 15, Chapter 20.80
Residential Accessory Uses and Improvements					
Accessory buildings and structures	P	P	P	P	Note 4, Section 20.80.200
Home Occupations	P	P	P	P	Part 9, Chapter 20.80
Entertainment and Recreation Related					
Equestrian and riding club	C	-	-	-	
Golf course	C	C	C	-	Note 5
Private club or lodge	-	-	C	-	
Swim and tennis club	C	C	C	C	
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
School- elementary and secondary (Public)	P	P	P	-	
School- elementary and secondary (Private)	C	C	C	-	
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Health and Veterinary Services					
Emergency ambulance service	C	C	C	C	
General Services					
Bed & Breakfast	C	C	C	-	
Transportation and Utilities					
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative use parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	Section 20.90.150
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Wireless communication antenna	C	C	C	C	Sections 20.30.130, 20.30.140 and 20.100.1300
Wireless communication antenna, slimline pole	S	S	S	S	Sections 20.30.130, 20.30.140, and 20.80.1900

Table 20-50 Residential Districts Land Use Regulations					
Use	Zoning District				Applicable Sections & Notes
	R-1	R-2	R-M	R-MH	
Wireless communication antenna, building mounted	P	P	P	P	Sections 20.30.130, 20.30.140, 20.80.1910
Electrical Power Generation					
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	Note 7
Facilities that do exceed noise or air standards	-	-	-	-	
Photovoltaic	P	P	P	P	Note 6
Wireless communication antenna, building mounted	C	C	C	C	Section 20.80.1900

Notes:

1. Only one one-family dwelling unit per lot in the R-1, R-2, R-M and R-MH Districts.
2. Only one dwelling structure per lot in the R-2 District.
3. Only permitted in the R-1-1 Estate Residential District.
4. No lot may be used solely for an accessory structure or building.
5. No driving ranges or miniature golf facilities.
6. Photovoltaic (PV) systems in the R-M zoning district may be processed through Permit Adjustment. PV systems for single-family or duplex lots do not require a Planning approval.
7. Stand-by or backup generators that would not otherwise require some permit from the City (including but not limited to building, electrical, or mechanical), and do meet the applicable noise and air standards are not subject to the Special Use Permit requirement.

20.30.110 Incidental Uses

In addition to the occupancy of a dwelling as a residence, the following incidental uses are permitted:

1. The rental of rooms in a one-family dwelling to up to three guests and in a two-family dwelling to up to two guests, by each family if such use is clearly incidental to the occupancy of the dwelling unit by said family as its own residence, and such rental is for a period of time longer than thirty (30) days and there are no more than six (6) persons living in the dwelling.
2. State Licensed Family Day Care Home.
3. The following non-commercial activities:
 - a. A garage sale consisting of the occupants' personal property;
 - b. Sale of goods hand-produced by the occupants;

- c. Sales parties held for the purpose of selling goods to invited guests. Such parties shall be held inside a permanent structure or in the rear yard of the dwelling unit.
- 3. To qualify as a non-commercial activity:
 - a. No more than two (2) such sales are allowed in any calendar year;
 - b. No such sale can be conducted for more than four (4) consecutive days;
 - c. Such sales shall only be conducted between the hours of nine o'clock a.m. and nine o'clock p.m.

20.30.120 Guesthouses

The following restrictions apply to Guesthouses:

- 1. Meals and housekeeping services may be provided with the lodging, but only to resident guests.
- 2. All cooking facilities must be in a single, common kitchen; no rooms shall have any cooking facilities.
- 3. No services may be provided to non-residents.
- 4. All required state licenses must be maintained.
- 5. No more than three (3) guest rooms may have separate external entryways.

20.30.125 Residential Uses - Prohibition on Provision of Services to Nonresidents

No residential use which includes the provision of services to residents may offer services to nonresidents.

20.30.130 Wireless Communications Antennae on Residentially-Zoned Parcels with a Non-residential Use

Wireless Communications Antennae are allowed in Residential Districts pursuant to Table 20-50 only if all of the following criteria are met:

- A. The proposed antenna is located upon a parcel with a non-residential use; and
- B. The proposed antenna is located either:

1. More than thirty-five (35) feet away from the nearest residential use; or at least one (1) foot away from the nearest residential use for every foot of monopole height, whichever distance is greater; or
2. More than twenty (20) feet away from the nearest residential use if the proposed antenna is mounted on an existing utility structure within a utility corridor.

20.30.140 Wireless Communications Antennae on Residentially Zoned Parcels with a Residential Use

Wireless Communications Antennae of any type located on residentially zoned parcels with a residential use shall require a Conditional Use Permit pursuant to the provisions of Chapter 20.100 of this Title.

Part 3 Development Regulations

20.30.200 Development Standards

All development in the Residential Zoning Districts shall conform to the development regulations set forth below in Table 20-60.

Table 20-60 Residential Zoning Districts Development Standards								
Regulations	Zoning District							
	R-1-8	R-1-5	R-1-2	R-1-1	R-1-RR	R-2	R-M	R-MH
Minimum Lot Area (square feet or acreage)	5,445	8,000	20,000	43,560	5 acres	5,445	6,000	6,000
Minimum Lot Area per living unit (square feet)							1,750	
Minimum Setback (feet)								
Front	25	25	30	30	50	20	15	15
Side, Interior	5	5	15	20	20	5	5	5
Side, Corner	12.5	12.5	15	20	30	10	7.5	7.5
Rear, Interior	20	20	25	25	30	25	25	25
Rear, Corner	20	20	25	25	30	25	15	15
Minimum Driveway Length (feet)	23	23	23	23	23			
Maximum Height (feet)	35	35	35	35	35	35	45	45
Maximum Number of stories	2.5	2.5	2.5	2.5	2.5	2.5	3	3
Parking	See Chapter 20.90							

20.30.210 Setback Determination

A. Corner Lot

If a lot exceeds the defined dimensions of a corner lot it cannot be considered a corner lot and hence is deemed to have two front property lines abutting the street sides, and a single rear property line and one (or more) side property line(s). The Director of Planning will make the final determination of where the front, side and rear property lines are of a lot where there is some question.

B. Irregular Shape Lot or a Lot with More Than Four (4) Sides

In the case of an irregular shaped lot or a lot with more than 4 sides where there is some questions as to what are the front, side and rear property lines, there shall be at a minimum, one front property line and one rear property line. The rear property line shall be the lot line directly parallel to the front property line and of a width of at least thirty (30) feet in length. If no such lot line exists, the Director shall make the final determination as to the rear property line of such lot.

20.30.220 Setback - Abutting Alley

In computing the depth of a rear setback area for any building, where such rear setback area opens onto an alley, one-half of such alley may be assumed to be a portion of the rear setback area.

20.30.230 Lot Area - Exceptions

- A. Notwithstanding the provisions of Section 20.30.200, the minimum area of a lot or parcel whose area, as shown on a final subdivision map approved by the City of San Jose, is less than the minimum lot area required for said zoning district, but not less than three thousand (3000) square feet shall be the area shown for such lot or parcel on such subdivision map.
- B. The minimum lot area shall not apply to SRO Living Unit Facilities.

20.30.240 Front Setback - Block Average Exception

Except as may be hereinafter otherwise provided, in the R-1-8, R-1-5, R-2, and R-M Residence Districts, when lots comprising forty percent or more of the frontage on one side of a street between two intersecting streets have been developed with buildings having an average front setback with a variation in depth of not more than 10 feet, the front setback applicable to such lots shall be said existing average rather than the setbacks as otherwise referenced in this Title, provided that this provision shall never be deemed to require a front setback of more than fifty feet for any such lot. No additional exceptions to the front setback are allowed to further reduce the front setback.

20.30.250 Side Setback - Exception, R-1 and R-2 Residence Districts

Notwithstanding the provisions of Section 20.30.200, where an interior lot is situate in a R-1 or R-2 Residence District, and such lot has been of record since prior to July 1, 1929, and such lot is and has been since said date less than fifty feet in width, the side setback requirements for such lot, if it is an interior lot, shall be:

1. for one-family or two-family dwellings or uses accessory thereto, ten percent of the width of such lot in lieu of the setback established by Section 20.30.200,

provided that in no case shall the side setback requirement be less than four feet; and

2. for buildings used or intended to be used for any purpose other than a one-family or two-family use or uses accessory thereto shall have a side setback of not less than twenty-five feet.

20.30.260 Side Setback - Exception, R-M and R-MH Residence Districts

Notwithstanding the provisions of Section 20.30.200, in the R-M and R-MH Residence Districts, if a building situated or proposed to be situated within a lot has more than two and one-half stories, the side setback established by the provisions of Section 20.30.200 for such lot, if it is an interior lot, shall be increased one foot for each additional story above the second story. If, however, such lot shall have been of record since prior to July 1, 1929, and has a width of less than fifty feet, the side setback established by the provisions of Section 20.30.200 shall be reduced, in such instances, to ten percent of the width of such lot, but to not less than four feet.

20.30.265 Rear Setback - Exception Lots of Record Since July 1, 1929

With respect to any interior or corner lot in an R-1 or R-2 Residence District, and with respect to an interior lot in an R-M Residence District, the rear setback may be reduced to twenty percent (20%) of the depth of such lot if the depth of such lot is less than one hundred (100) feet and if, in addition, such lot has been of record, with such lesser depth, since prior to July 1, 1929. In no case can the rear setback be less than fifteen (15) feet.

20.30.270 Rear Setback - Exception – Corner Lot – Attached Garage

Notwithstanding the provisions of Section 20.30.200, the rear setback for a dwelling on a corner lot in a R-1 and R-2 Residence District, having a garage as an integral part of the building may be reduced to five feet where the portion of said building which is situate within twenty feet of the rear property line of said corner lot does not extend in front of the building setback line required of the lots situate within the same block and to the rear of said corner lot, and where, in addition, the portion of said dwelling which is situate within twenty feet of the rear property line of said corner lot does not occupy more than thirty percent of the rear twenty feet of said corner lot.

20.30.280 Rear Setback - Exception – Additions to Single Family Residences

In the R-1 Residence Districts, an addition, added to an existing one-family dwelling, which is a single story or an enclosed patio and which does not exceed one story above grade, shall have a minimum rear setback of fifteen feet (15'), provided that such addition shall not occupy more than fifty percent (50%) of the area between the rear setback as designated in Section 20.30.200 and said fifteen foot (15') rear setback.

20.30.290 Mobilehome Parks Converted to Residential Ownership

Where mobilehome lots rented to tenants in a mobilehome park in a R-MH Residence District are proposed to be converted to separate lots or parcels, the minimum lot area and setbacks of the proposed lots or parcels may correspond to those of the mobilehome lots existing prior to the conversion.

20.30.300 Maximum Height - Exception

In the R-1, R-2 and R-M Residence Districts, the maximum height of a chimney, weather vane or other similar architectural embellishment mounted on a building and having a horizontal cross section of no more than 20 square feet may be increased to forty (40) feet provided that it does not exceed the height of the building on which it is mounted by more than five (5) feet.

20.30.310 Minor Addition - Exception

The Building Inspector may Permit one-story additions to be erected with the same side setback as an existing structure subject to the following restrictions:

1. No such addition shall reduce, or further diminish a nonconforming setback.
2. No such addition shall be more than 150 square feet in area within the nonconforming setback area.
3. Said addition is a single-story addition.
4. Only one such addition shall be Permitted.

Part 4 Setback Regulations

20.30.400 Setback Areas - Setback Area to be kept Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other Sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

1. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any setback area;

2. In the R-1-2, R-1-1 and R-1-RR districts only, sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than four (4) feet into the air space above the surface of the ground in any setback area;
3. Bay windows, on a foundation or cantilevered, or chimneys of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into any setback area, provided that such extensions maintain a minimum side setback of three (3) feet and a rear setback of fifteen (15) feet;
4. Wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into the side and rear setback area, provided that such extensions maintain a minimum side setback of three (3) feet and a rear setback of fifteen (15);
5. Overhead wires necessary for utility service to a building on the lot;
6. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical and other utility needs of the lot or of a building on the lot; and
7. Walks and driveways for vehicular or pedestrian access to the lot provided that in the R-M Residence district, no part of any such walk or driveway situate in any setback area which abuts upon a public street shall be more than two feet above nor more than one foot below the surface grade of the public street on which such setback area abuts. As used in the preceding sentence "surface grade" shall mean the average grade at top of curb, or if there is no curb then at the centerline, of that linear portion of the public street which abuts such setback area.
8. Mechanical equipment, including but not limited to, pool equipment and HVAC equipment, may be placed in the rear setback and must maintain a five (5) foot setback from the rear property line, maintain a setback from the side property line a distance equal to that of the side setback requirements of the respective zoning district, and adhere to the required front setback of the respective zoning district.

20.30.410 Stairs and Porches

Unenclosed porches and stairways, if they do not extend more than three feet above surface grade, may extend into a front setback area not more than five (5) feet. Porches and stairs can be covered.

20.30.420 Rear Setbacks - Projections into

The following encroachments are Permitted into the air space above the surface of the ground in the rear setback area required Section 20.30.200; provided, however, that the horizontal distance, measured at any and all points between the vertical projection of any accessory building or structure (except an uncovered swimming pool, no part of which, other than diving boards, slides and ladder rails, is more than twelve inches above surface grade) and the vertical projection of such encroachments shall be not less than six feet, said Permitted encroachments being as follows:

1. In the R-M Residence District, balconies, decks and corridors of the residential building if they are uncovered and unenclosed, and if the lowest part thereof is not less than eight (8) feet above surface grade, may project horizontally for a distance of not more than five (5) feet into the air space above the surface of the ground in the rear setback area as set forth in Table 20-60. Such balconies, decks and corridors shall not be supported by nor attached to any columns or walls situate in such required rear setback area which is covered by them or be enclosed with glass, screening or walls of any kind nor shall any glass, screening or walls of any kind situate in such required rear setback area be attached to them.
2. Fire escapes of the residential building, if they are uncovered and unenclosed, and if the lowest part thereof when in a retracted position is not less than eight (8) feet above surface grade, may project horizontally for a distance of not more than five (5) feet into the air space above the surface of the ground in the rear setback area required by Section 20.30.200.
3. Eaves of the residential building and/or a roof (e.g., a patio cover) which is attached to the residential building may project horizontally for a distance of not more than four (4) feet into the air space above the surface of the ground in the rear setback area required by other provisions of this Title. Such eaves and/or such roof shall not be supported by nor attached to any columns or walls situate in such required rear setback area; nor shall any part of such required rear setback area which is covered by such eaves and/or such roof be enclosed with glass, screening or walls of any kind, nor shall any glass, screening or walls of any kind situate in such required rear setback area be attached to any part of such eaves or such roof.
4. Eaves of the residential building and/or a roof (e.g., a patio cover) which is attached to the residential building may project for a greater distance than four feet into the air space above the surface of the ground in the rear setback area required by Section 20.30.200, provided that:
 - a. Such eaves and/or such roof may cover up to, but not more than, fifteen percent (15%) of such required rear setback area;

- b. No part of that portion of such eaves and/or of such roof which encroaches more than four feet into such required rear setback area shall be less than seven (7) feet above surface grade;
- c. No part of that portion of such eaves and/or of such roof which encroaches more than four feet into such required rear setback area shall be more than ten (10) feet above surface grade;
- d. No part of that portion of such eaves and/or of such roof which encroaches more than four feet into such required setback area shall have a vertical thickness of more than thirty-six (36) inches;
- e. Such eaves and/or such roof may be supported by columns which are situate in such required rear setback area, but shall not be supported by nor attached to walls which are situate in such required rear setback area;
- f. No part of such eaves nor of such roof nor of any columns supporting such eaves and/or such roof shall be closer than fifteen (15) feet, horizontally, to the rear property line; and
- g. No part of such required rear setback area which is covered by such eaves and/or such roof shall be enclosed with glass, screening or walls of any kind nor shall any glass, screening or walls of any kind situate in such required rear setback area be attached to any part of such eaves, such roof or columns supporting such eaves and/or such roof.

20.30.430 Front Set Back- Parking and Storage

No unmounted camper or vehicle, other than those vehicles expressly specified and allowed under Title 17 of this Code, shall be kept, stored or parked for a period of time in excess of forty-eight (48) consecutive hours in the front setback area of any lot or parcel situate in a residential district or containing a residential use. Such parking or storage is limited to paved surfaces.

20.30.440 Front Setback - Limitation on Amount of Paved Surface

No more than fifty percent (50%) of the required front setback for any lot containing a one-family dwelling or any lot located in any R-1 Residence District with a frontage width of forty (40) feet or greater shall be paved with asphalt, cement or any other impervious surface.

1. For lots which have a frontage width less than forty (40) feet, paving in the front setback area is limited to ten (10) feet in width or fifty percent (50%) of the width of the lot at any given point, whichever is greater.
2. Notwithstanding subsection 1, for lots which have a frontage width less than forty (40) feet, a paved area directly contiguous with, and providing primary access to, two side by side

required parking spaces, may exceed the fifty percent (50%) limitation as long as it is no more than twenty-five (25) feet long and eighteen (18) feet wide.

Part 5

Accessory Buildings and Structures

20.30.500 Development Standards

- A. All accessory buildings and structures in the Residential Zoning Districts shall conform to the development regulations set forth below in Table 20-70.
- B. When the right column of Table 20-70 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply.

Table 20-70 Accessory Buildings and Structures Development Regulations		
Front Setback (feet)		
retaining walls	none	
swimming pool, built-in	30	
detached garage on a lot with two intersecting front property lines	25	Note 1
all other accessory buildings and structures	60	
Side Setback (feet)		
swimming pools, built-in		
interior lot	5	
corner lot	9	
all other accessory buildings and structures	none	Notes 2,3
Rear Setback (feet)		
swimming pools, built-in	5	
all other accessory buildings and structures	none	Notes 2,3
Height (feet)		
retaining wall	2	Note 4
all other accessory buildings and structures	12	Note 5
Maximum number of stories	1	
Maximum size (square feet)		
garage	650	Note 6, Note 7
all other accessory buildings and structures	200	Note 6, Note 7

Notes:

1. Measured from front property line which is opposite the designated side property line.
2. On a corner lot, no accessory buildings shall be built within ten (10) feet of the side property line of the street side.
3. With respect to accessory buildings or structures, where any such building or structure is proposed to be constructed on a corner lot which abuts upon a key lot which is for residential use, such building shall be set back not less than four feet from the rear line of such lot, provided that the setback for swimming pools shall not, in any event, be reduced to less than five feet.

4. Maximum height of two (2) feet, unless otherwise approved with a Development Permit.
5. No accessory building or structure shall exceed twelve (12) feet in height except that, for an accessory building with a sloped roof, the height halfway up any slope of a pitched, gable or hip roof may not exceed 12 feet and, in no case, may any portion of the roof exceed a height of sixteen (16) feet.
6. The maximum square footage may be increased pursuant to a Special Use Permit, as provided for in Chapter 20.100 of this Title.
7. The total aggregate square footage of all accessory building(s) built on any property in any R-1 or R-2 Residence Zoning Districts shall not exceed six hundred fifty (650) square feet unless the owner has obtained a Special Use Permit, as provided for in Chapter 20.100 of this Title. For purposes of this Section, the calculation of square footage shall not include any square footage of an accessory structure that is entirely below grade.

20.30.510 Rear Yard Coverage

- A. The cumulative total of the rear yard covered by any part of accessory buildings and accessory structures (not including built-in swimming pools) built in the rear yard shall not exceed 40%, of which accessory buildings can not exceed 30%.
- B. The cumulative total of the rear yard covered by any part of a built-in swimming pool shall not exceed 60%. In calculating the maximum allowable rear yard coverage for a built-in swimming pool, the cumulative total of any part of any accessory building(s) and structure(s) shall be added to the area of the built-in swimming pool.

20.30.520 Separation of Accessory Building

Except for built-in swimming pools, the horizontal distance between any and all points between the building walls of any accessory building and the building walls of any other building on the property including any other accessory building(s) shall not be less than six (6) feet. Eaves may be closer than six (6) feet but will have to meet any applicable building code regulations.

Part 6 Fence Regulations

20.30.600 Fence Regulations

All fences on lots with a single one-family dwelling in any Zoning District shall conform to the development regulations set forth below in Table 20-80. Fences which comply with these requirements do not require approval from the Director. No fence may be erected or constructed which exceeds the height specified in Table 20.80 except as specifically allowed by a variance or in conformance with this Title. All other fencing shall require approval from the Director.

Table 20-80 Fence Regulations R-1 Residence Districts	
Interior Lot	
Front Setback Area	Maximum three (3) feet in height
Rear Setback Area	Maximum seven (7) feet in height
Side Setback Area	Maximum seven (7) feet in height
Corner Lot	
Front Setback Area	Maximum three (3) feet in height
Rear Setback Area	Maximum seven (7) feet in height
Adjacent to Side Setback Area of Key Lot or Corner Lot	Maximum three (3) feet in height for a distance of twelve and one-half (12 1/2) feet measured from the street property line and fifteen (15) feet as measured from the rear lot line.
Adjacent to a Street	Maximum three (3) feet in height within five (5) feet of property line. Maximum seven (7) feet in height at least five (5) feet from property line.
Side Setback Area	Maximum three (3) feet in height within five (5) feet of property line. Maximum 7 feet in height at least five (5) feet from property line.
Intersections	Maximum three (3) feet in height within the corner triangle; provided however, that single-stem plants or trees without foliage with a height between three feet and eight feet may be planted and maintained within the corner triangle on any corner lot.

20.30.610 Measurement of Height

For purposes of this Chapter, the measurement of fence height shall be measured from the grade of the public right-of-way, and from existing grade in the case of all other property lines.

20.30.620 Maximum Height - Exception

When the difference in grade along a common property line exceeds two feet, any fence along the common property line shall not exceed more than 6 feet in height.

20.30.630 Posts and Gates

Support posts or columns, not exceeding four feet in height and eighteen inches in width, and gates and trellises used for pedestrian purposes, not exceeding eight feet in height and five feet in length shall be Permitted, provided such entry is at least fifteen feet away from an intersection.

20.30.640 Prohibited fences

The following materials and fence types are prohibited from use on any parcel of property in the city that is used for residential purposes and is not subject to a development Permit:

1. Barbed wire
2. Razor wire
3. Electric fences
4. Glass
5. Other sharp materials

20.30.650 Swimming and Wading Pool Fencing Requirements

Swimming and wading pools are required to meet the fencing requirements found in Title 17 of the San Jose Municipal Code and/or as amended by State Law.

Part 7 Performance Standards

20.30.700 Performance Standards

- A. In the R-1, R-2, R-M, and R-MH Residential Districts, no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.

- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Residential Zoning Districts:

1. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

2. Noise

The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-85 at any property line, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-85 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Any residential or non-residential use	55

3. Vibration

There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

CHAPTER 20.40

COMMERCIAL ZONING DISTRICTS

Part 1 General

20.40.010 Commercial Zoning Districts.

- A. This Chapter sets forth the land use and development regulations applicable to the Commercial Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the CO, CP, CN and CG Commercial Districts except as set forth in this Chapter.
- C. The Commercial Zoning Districts are intended to support the commercial land use, economic development, and neighborhood preservation and conservation goals and policies of the General Plan through the use regulations and development standards. The four Commercial Districts reflect the diversity of the commercial needs and opportunities in the City. The purposes of the Commercial Districts are as follows:
 - 1. CO Commercial Office District. The CO Commercial Office District is a district in or near residential areas or between residential and commercial areas. This district is intended to be a low intensity office zone that allows for a scale of offices in or adjacent to residential neighborhoods. Larger scale office development can be permitted upon approval of the Planning Commission, or City Council on appeal, through the Conditional Use Permit process.
 - 2. CP Commercial Pedestrian. The CP Commercial Pedestrian District is a district intended to support pedestrian oriented retail activity at a scale compatible with surrounding residential neighborhoods. This district is designed to support the goals and policies of the General Plan related to neighborhood business districts. The CP Commercial Pedestrian District also encourages mixed residential/commercial development where appropriate.
 - 3. CN Commercial Neighborhood. The CN Commercial Neighborhood District is a district intended to provide for neighborhood serving commercial uses without an emphasis on pedestrian orientation except within the context of a single development. This district also differs from the CP Commercial Pedestrian District in that there is no limit on the size of the stores. The type of development

supported by this district includes neighborhood centers, multi-tenant commercial development along major arterials, and small corner commercial establishments.

4. CG Commercial General. The CG Commercial General District is a district intended to serve the needs of the general population. This district allows for a full range of retail and commercial uses with a local or regional market. Development is expected to be auto-accommodating and includes larger commercial centers as well as regional malls.

Part 2 Use Regulations

20.40.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-90.
- B. “Conditional” uses are indicated by a “C” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.
- C. “Special” uses are indicated by a “S” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. “Administrative” uses are indicated by a “A” on Table 20-90. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. Land uses not Permitted are indicated by a “-” on Table 20-90. Land uses not listed on Table 20-90 are not Permitted.
- F. When the right column of Table 20-90 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Retail					
Retail sales, goods and merchandise	-	P	P	P	
Alcohol, off-site sales	-	C	C	C	Section 20.80.900
Bakery, retail	-	P	P	P	
Food, beverage, groceries	-	P	P	P	
Nursery, plant	-	P	P	P	Note 1
Outdoor vending	-	A	A	A	Part 10, Chapter 20.80
Pawn shop/broker	-	C	C	C	See Title 6
Seasonal sales					Part 14, Chapter 20.80
Education and Training					
Child daycare center located on an existing school site or as an incident to an on-site Church/Religious Assembly use involving no building additions or changes to the site	P	P	P	P	
Day care center	C	C	C	C	
Instructional art studios	-	P	P	P	Note 2
Instructional art studios, with live models	-	C	C	C	Note 2
Private Instruction, personal enrichment	-	P	P	P	Note 3
School- elementary and secondary (Public)	P	P	P	P	
School- elementary and secondary (Private)	-	C	C	C	
School, driving (class C & M license)	-	P	P	P	Note 4
School, post secondary	-	P	P	P	Note 5
School, trade and vocational	-	C	C	C	
Entertainment and Recreation Related					
Arcade, amusement	-	C	C	C	
Dancehall	-	C	C	C	
Entertainment	-	C	C	C	
Poolroom/Billiards Establishment	-	C	C	C	
Private club or lodge	C	C	C	C	
Recreation, Commercial (indoor)	-	P	P	P	
Recreation, Commercial (outdoor)	-	C	C	C	
Theatre, indoor	-	C	C	C	
Theatre, outdoor	-	-	-	C	
Food Services					
Banquet facility	-	C	C	C	
Caterer	-	P	P	P	Note 6
Drinking establishments	-	C	C	C	
Public eating establishments	-	P	P	P	
Health and Veterinary Services					
Animal boarding, indoor	-	P	P	P	Section 20.40.120
Animal grooming	-	P	P	P	Section 20.40.120
Emergency ambulance service	C	C	C	C	
Hospital/ in-patient facility	C	C	C	C	
Medical clinic/ out-patient facility	P	P	P	P	
Medical, dental and health practitioner	P	P	P	P	
Veterinary clinic	-	P	P	P	Note 7

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
General Services					
Bed and Breakfast	-	P	P	P	Part 2, Chapter 20.80
Dry cleaner	-	P	P	P	
Hotel/motel	-	P	P	P	
Laundromat	-	P	P	P	
Maintenance and repair, small household appliances	-	P	P	P	
Messenger services	P	P	P	P	Note 8
Mortuary and funeral services	P	P	P	P	
Personal services	-	P	P	P	Section 20.200.880
Photo processing and developing	-	P	P	P	
Printing and publishing	-	P	P	P	
Offices and Financial Services					
Automatic Teller Machine	P	P	P	P	Section 20.80.200
Business Support	-	P	P	P	
Financial Institution	P	P	P	P	
Offices, business and administrative	P	P	P	P	Section 20.40.110
Public, Quasi-Public and Assembly Uses					
Cemetery	C	C	C	C	
Church/Religious Assembly	C	C	C	C	
Museums, libraries, parks, playgrounds, or community centers (Publicly operated)	P	P	P	P	
Museums, libraries, parks, playgrounds, or community centers (Privately operated)	-	C	C	C	
Residential					
Emergency residential shelter	C	C	C	C	Section 20.80.500
Live/Work	-	S	S	S	Section 20.40.130
Mixed Use/Ground floor commercial with residential above	-	C	C	C	Note 9
Residential Care Facility for seven or more persons	C	C	C	C	
Residential Service Facility for seven or more persons	C	C	C	C	
Single Room Occupancy Hotel	-	C	C	C	Part 15, Chapter 20.80
Single Room Occupancy Living Unit	-	C	C	C	Part 15, Chapter 20.80
Drive-Through Uses					
Drive-through in conjunction with any use	-	-	C	C	
Recycling Uses					
Reverse vending	A	A	A	A	
Small collection facility	A	A	A	A	
Transportation and Utilities					
Communications service exchange	-	-	-	C	
Community television antenna systems	C	C	C	C	
Off-site, alternating use and alternative parking arrangements	S	S	S	S	Section 20.90.200
Parking establishment, off-street	C	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	C	
Television, radio studios without antenna/dishes	-	-	-	C	

Table 20-90 Commercial Districts Land Use Regulations					
Use	Zoning District				Notes & Sections
	CO	CP	CN	CG	
Short term parking lot for uses or events other than on-site	-	-	-	C	Note 10
Wireless communication antenna	C	C	C	C	Section 20.100.1300
Wireless communication antenna, slimline monopole	S	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	P	Section 20.80.1910
Electrical Power Generation					
Private Electrical Power Generation Facility	C	C	C	C	Note 16
Co-Generation Facility	S	S	S	S	
Stand-by/Backup					
Facilities that do not exceed noise or air standards	S	S	S	S	
Facilities that do exceed noise or air standards	C	C	C	C	
Temporary Stand-by/Backup	A	A	A	A	
Photovoltaic	P	P	P	P	Note 15
Vehicle Related Uses					
Accessory installation, passenger vehicles and pick-up trucks	-	-	C	P	
Auto broker, wholesale, no on-site storage	P	P	P	P	
Car wash, detailing	-	-	C	C	
Gas or charge station	-	C	C	P	Note 11
Gas or charge station with incidental service and repair	-	C	C	P	Note 12, Note 18
Glass sales, installation and tinting	-	-	C	P	Note 18
Sale or lease, commercial vehicles	-	-	C	C	Note 18
Sale passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	P	Note 17, Note 18
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	C	C	Note 16
Sale, vehicle parts	-	C	P	P	Note 14
Tires, batteries, lube, oil change, smog check station, air conditioning servicing of passenger vehicles and pick-up trucks	-	-	C	P	Note 13, Note 18

Notes Applicable to all Commercial Districts:

- (1) In the CP District, landscaping materials, such as rock, mulch, and sand are limited to prepackaged sales.
- (2) Includes such areas as dance, music, martial arts and fine arts.
- (3) Includes such areas as driving, language, and academics.
- (4) No on site storage of vehicles permitted.
- (5) Includes public and private colleges and universities, as well as extension programs and business schools.
- (6) Not a catering facility.
- (7) Intentionally omitted.
- (8) No on site storage of vehicles permitted.
- (9) Make sure General Plan supports mixed use or residential.
- (10) Use must be less than twenty-four (24) hours.
- (11) No incidental repair or service permitted. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.

- (12) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail food, grocery items or alcohol. See Section 20.80.550.
- (13) Non engine and exhaust related service and repair allowed as incidental.
- (14) No outdoor sales areas or dismantling allowed.
- (15) Photovoltaic (PV) systems may be processed through a Permit Adjustment.
- (16) No on-site storage of vehicles permitted.
- (17) In the CG District, incidental storage of vehicles, and incidental repair of vehicles in addition to what otherwise would be permitted, requires a Conditional Use Permit. Incidental storage and repair of vehicles is prohibited in all other commercial districts.
- (18) All vehicle-related repair, service, and accessory or other installation shall be conducted within a fully enclosed building.

20.40.110 Incidental Uses, Office

Subject to the conditions, limitations and restrictions hereinafter set forth, space situate entirely within a building used for business, professional or administrative office purposes may be used for the operation of a restaurant, café or newsstand if:

- 1. The use of such space for a restaurant, café or newsstand is incidental and auxiliary to the primary and main use of the building for one or more of the above uses;
- 2. The gross floor area of such building is fifty thousand (50,000 square feet or more);
- 3. Two hundred fifty (250) or more persons are employed in such building;
- 4. The only public access to the restaurant, café, newsstand is by way of an interior lobby or court, and there is not direct access thereto from outside the building;
- 5. The total combined gross floor area of all restaurants, cafes, and newsstands in any one building shall not exceed one-tenth the total gross floor area of the entire building.

20.40.120 Animal Uses

All uses involving any type of care for animals, including but not limited to Grooming, Boarding, Medical Care must be conducted wholly inside a building.

20.40.130 Live/Work Units.

Any Special Use Permit issued for live-work uses shall be subject to the following criteria:

- A. Only owners or employees of the business associated with the live/work unit may occupy the living unit portion; and
- B. The live/work unit complies with the Uniform Building Code requirements.

Part 3 Development Regulations

20.40.200 Development Standards.

All development in the Commercial Zoning Districts shall conform to the development regulations set forth below in Table 20-100.

Table 20-100 Commercial Zoning Districts Development Standards				
Regulations	Zoning District			
	CO	CP	CN	CG
Minimum Lot Area (square feet or acreage)	6,000	6,000	6,000	1 acre (none if lot is located in a shopping center with shared access and shared parking among the lots)
Minimum Setback (feet)				
Front	15	no minimum, 10 feet maximum	15	25
Side, Interior	5	none	none	none
Side, Corner	12.5	none	12.5	12.5
Rear, Interior	25	25	none	none
Rear, Corner	25	25	none	none
Maximum Height (feet)	35	50	50	65
Maximum Number of stories	3	4	4	8
Maximum Individual Occupant Square Footage (square feet) ^[see Note 1]		2,500/Personal service shop 5,000/Eating, drinking or entertainment establishment 15,000/all other uses ^[see Note 1]		
Parking	See Chapter 20.90			

Notes Applicable to Commercial Development Standards:

In the CP Commercial Pedestrian District, lots located wholly within the West San Carlos Street Neighborhood Business District, as indicated on the General Plan Land Use Diagram, shall not be subject to the maximum individual occupant square footage requirements set forth in this Section.

20.40.210 Setback - Abutting Alley

In computing the depth of a rear setback area for any building, where such rear setback area opens onto a public alley, one-half of such alley may be assumed to be a portion of the rear setback area.

20.40.220 Maximum Individual Tenant Square Footage - CP District

The maximum tenant square footage in the CP District may be exceeded only pursuant to and in conformance with an approved Conditional Use Permit as set forth in Chapter 20.100.

20.40.230 Maximum Height - Exception, Number of Stories - Exception

Notwithstanding, the provisions of Section 20.40.200, in any Commercial District, the Maximum Height and Maximum Number of Stories restrictions shall not apply to SRO Residential Hotels, SRO Living Unit Facilities and mixed commercial/residential projects.

20.40.240 Lot Area - Exception

Notwithstanding, the provisions of Section 20.40.200, in all the Commercial Districts, the minimum area of a lot, whose area as shown on a final subdivision map approved by the City, is less than the minimum required but not less than 5,000 square feet, shall be the area shown for such lot or parcel on such subdivision map.

20.40.250 Front Setback - Exception, Streets with Residence Districts

Notwithstanding, the provisions of Section 20.40.200 where lots situate on one side of a street between two intersecting streets are situate partly in a Commercial District and partly in a Residence District, the front setback requirements applicable to such Residence District shall apply to all lots in the Commercial District.

20.40.260 Front Setback - Exception, CP District

The Director may grant an exception to the maximum front setback for a lot in the CP Commercial District if he finds that the adjacent lot(s) have a greater setback and the allowance of a greater setback on the subject lot would promote a more consistent pattern of development, and/or the greater setback is needed to accommodate building design elements.

20.40.270 Side Setback - Exceptions, Interior Lot.

Notwithstanding, the provisions of Section 20.40.200, in the CP Commercial District, a building side setback shall be required for interior lots on that side of each such lot which abuts on the side of a lot situate in a Residence District, in which case the side setback requirements shall be a minimum of ten (10) feet.

20.40.290 Rear Setback - Exception, Property Abutting a Commercial or Less Restrictive District

Notwithstanding, the provisions of Sections 20.40.200, there shall be no rear setback for property situate in any Commercial District whenever the entire rear property line of such property abuts property situate in any Commercial District or less restrictive district.

20.40.300 Exception - Maximum Number of Stories, Height, and Floor Area Ratio Exception.

In the CO Commercial Office and CG Commercial General Districts, a Conditional Use Permit may be issued which authorizes a greater floor area, number of stories and/or height if such increases are not inconsistent with the general purposes of this Title, consistent with applicable General Plan policies, and would promote the public health, safety, or welfare.

**Part 4
Setback Regulations**

20.40.400 Setback Areas - Open, Unobstructed, and Unoccupied

Except as otherwise expressly and specifically provided in other sections of this Title, every part of every setback area shall be kept open, unobstructed, and unoccupied on the surface of the ground, above the surface of the ground, and below the surface of the ground by all buildings or structures except as follows:

1. Sills, eaves, belt courses, cornices, canopies, and other similar architectural features may project horizontally for a distance of not more than two (2) feet into the air space above the surface of the ground in any setback area;
2. Bay windows, on a foundation or cantilevered, or chimneys of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into any setback area, provided that such extensions maintain a minimum setback of three (3) feet;
3. Wells for basement windows or stairs of up to ten (10) feet in length each, not occupying in the aggregate more than twenty percent (20%) of the length of the side of the building on which they are located, may project horizontally for a distance of not more than two (2) feet into the side and rear setback area, provided that such extensions maintain a minimum setback of three (3) feet;
4. Overhead wires necessary for electrical and telephone service to a building on the lot;

5. Underground lines necessary for the sewerage, drainage, plumbing, water, gas, and electrical needs of the lot or of a building on the lot; and
6. Walks and driveways for vehicular or pedestrian access to the lot.

Part 5 General Regulations

20.40.500 Late Night Use and Activity

- A. No establishment other than office uses, in any Commercial District shall be open between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.
- B. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one-hundred fifty (150) feet of any residentially zoned property between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

20.40.510 Permanent Structure Required

No use shall be deemed to be a Permitted use on a site in any Commercial District unless it is being conducted as part of a business which maintains on that site a permanent, fully enclosed building erected pursuant to a valid building Permit issued for that site, excepting only those uses specifically Permitted, under this Part or this Title, to operate without a permanent building on site.

20.40.520 Outdoor Uses within 150 Feet of Residentially Zoned Property

No use, which in whole or in part, consists of, includes, or involves any outdoor activity or sale or storage of goods, products, merchandise or food outdoors shall occur on any lands or in any buildings if any part of such lands or any part of the lot on which such buildings are located is situate within one hundred fifty (150) feet of residentially zoned property except with a Conditional Use Permit as provided for in Chapter 20.100, except for the following:

1. Seasonal sales in accordance with the provisions in Part 4, Chapter 20.80.
2. Service windows for pedestrians or automatic teller machines for pedestrians both of which are associated with financial institutions.
3. Cigarettes, ice, candy, food, and soft drinks dispensed from self-service, coin-operated automatic vending machines.
4. Plant nursery sales.

20.40.525 Residential Uses - Prohibition on Provision of Services to Nonresidents

No residential use which includes the provision of service to residents may offer services to nonresidents.

20.40.530 Lighting

- A. All lighting or illumination shall conform with any lighting policy adopted by the City Council.
- B. Light fixture heights should not exceed eight (8) feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five (25) feet in height.
- C. Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.

20.40.540 Lighting Adjacent to Residential Properties

Any and all lighting facilities hereafter erected, constructed, or used in connection with any use conducted on any property situate adjacent to a site or lot used for residential purposes shall be arranged and shielded that all light will be reflected away from any residential use so that there will be no glare which will cause unreasonable annoyance to occupants of such property, or otherwise interfere with the public health, safety, or welfare.

20.40.560 Screening Adjacent to Residentially Zoned Properties

Any use conducted on any property shall be effectively screened at the property line from any abutting property in a Residential District. The screening required hereby shall be a masonry wall or a solid wooden fence five (5) feet in height, except that any portion thereof situate in the required setback area from abutting public streets shall be not more than four (4) feet; and in the event such use included any outdoor activity, such screening shall also include such trees or plants as the Director deems reasonable necessary to effectively screen such use from the adjoining Residential District. Such screening shall at all times be maintained in good condition and be kept free at all times of signs. In addition, where a use involving outdoor activity is on a lot or parcel adjoining a Residential District, such lot or parcel shall be landscaped in a manner approved by the Director.

Part 6

Performance Standards

20.40.600 Performance Standards

- A. In the CO, CP, CN, and CG Commercial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding paragraph, the following specific standards shall apply in the Commercial Zoning Districts:

1. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

2. Noise

The sound pressure level generated by any use or combination of uses on a property shall not exceed the decibel levels indicated in Table 20-105 at any property line, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-105	
Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Commercial use adjacent to a property used or zoned for residential purposes	55
Commercial use adjacent to a property used or zoned for commercial or other non-residential purposes	60

3. Vibration

There shall be no activity on any site that causes ground vibration that is perceptible without instruments at the property line of the site.

CHAPTER 20.50

INDUSTRIAL ZONING DISTRICTS

Part 1 General

20.50.010 Industrial Zoning Districts

- A. This Chapter sets forth the land use and development regulations applicable to the Industrial Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the IP, LI and HI Industrial Districts except as set forth in this Chapter.
- C. The purposes of the Industrial Zoning Districts are as follows:

- 1. IP Industrial Park

The Industrial Park zoning designation is an exclusive designation intended for a wide variety of industrial users such as research and development, manufacturing, assembly, testing, and offices. Industrial uses are consistent with this designation insofar as any functional or operational characteristics of a hazardous or nuisance nature can be mitigated through design controls. Areas exclusively for industrial uses may contain a very limited amount of supportive commercial uses, in addition to industrial uses, when those uses are of a scale and design providing support only to the needs of businesses and their employees in the immediate industrial area. These commercial uses should be located within a larger industrially utilized building to protect the character of the area and maintain land use compatibility. When located within an area with a Mixed Industrial Use Overlay General Plan Designation or a Combined Industrial/Commercial General Plan Designation, a broader range of uses, both free standing and in combination with others, will be considered including uses such as retail, Church/Religious Assembly, social and community centers, recreational uses, or similar uses but only when the non-industrial use does not result in the imposition of additional constraints on neighboring industrial users in the exclusively industrial areas.

- 2. LI Light Industrial

The Light Industrial Zoning District is intended for a wide variety of industrial uses and excludes uses with unmitigated hazardous or nuisance effects. The design controls are less stringent than those for the Industrial Park Zoning

District. Examples of typical uses are warehousing, wholesaling, and light manufacturing. Sites designated Light Industrial may also contain service establishments that serve only employees of businesses located in the industrial areas. When located within an area with a Mixed Industrial Use Overlay General Plan Designation or a Combined Industrial/Commercial General Plan Designation, a broader range of uses will be considered including uses such as retail, Church/Religious Assembly, social and community centers, recreational uses, or similar uses but only when the non-industrial use does not result in the imposition of additional constraints on neighboring industrial users in the exclusively industrial areas.

3. HI Heavy Industrial

This district is intended for industrial uses with nuisance or hazardous characteristics which for reasons of health, safety, environmental effects, or general welfare are best segregated from other uses. Extractive and primary processing industries are typical of this district. Very limited scale retail sales and service establishments serving nearby businesses and their employees may be considered appropriate where such establishments do not restrict or preclude the ability of surrounding Heavy Industrial land from being used to its fullest extent and are not of a scale or design that depends on customers from beyond normal walking distances. Any such uses should be clearly incidental to the industrial user on the property and integrated within an industrial building. When located within an area with a Mixed Industrial Use Overlay General Plan Designation, a broader range of uses will be considered including uses such as retail, Church/Religious Assembly, social and community centers, recreational uses, or similar uses but only when the non-industrial use does not result in the imposition of additional constraints on neighboring industrial users in the exclusively industrial areas.

Part 2

Uses Allowed

20.50.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-110.
- B. “Conditional” uses are indicated by a “C” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

“Conditional” uses which may only be approved on property designated on the Land Use/Transportation Diagram of the San Jose 2020 General Plan, as amended, with the

Mixed Industrial Overlay are indicated by a “CM” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Conditional Use Permit as set forth in Chapter 20.100.

- C. “Special” uses are indicated by a “S” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a Special Use Permit as set forth in Chapter 20.100.
- D. “Administrative” uses are indicated by an “A” on Table 20-110. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an Administrative Permit as set forth in Chapter 20.100.
- E. Land uses not permitted are indicated by a “-” on Table 20-110. Land uses not listed on Table 20-110 are not Permitted.
- F. When the right column of Table 20-110 includes a reference to a Section number or a footnote, the regulations cited in the Section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other Title of the San Jose Municipal Code.

Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Industry				
Auction	CM	CM	CM	
Industrial Services	-	P	P	
Laboratory, processing	S	P	P	
Manufacturing and Assembly				
Light	P	P	-	
Medium	S	P	P	
Heavy	-	-	P	
Research and Development	P	-	-	
Catalog and mail order	P	P	-	
Construction/Corporation yard	-	C	C	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	-	P	P	
Extraction of minerals from the ground, including quarrying	-	-	C	
Hazardous materials storage	-	C	C	
Hazardous waste facility	-	-	C	
Junkyard	-	-	C	
Miniwarehouse/ministorage	-	P	P	
Outdoor uses or storage	-	C	P	Section 20.50.210

Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Private power generation	C	C	C	
Stockyard, including slaughter	-	-	C	
Warehouse/Distribution Facility	S	P	P	
Wholesale sale establishment	S	P	P	
Additional Uses				
Any use not set forth in Tables 20-30, 20-50, 20-90	-	-	C	
Any use without a permanent fully enclosed building on-site	C	C	C	
Commercial support	P	-	-	Section 20.50.110
General Retail				
Nursery, plant	-	C	C	
Outdoor vending	-	A	A	Part 10, Chapter 20.80
Retail or wholesale commercial entity, single occupant greater than 100,000 gross square feet	CM	CM	-	
Sales, office furniture, industrial equipment, machinery	-	C	-	
Seasonal Sales	P	P	P	Part 14, Chapter 20.80
Education and Training				
Day care center	CM	CM	CM	
School, driving (class A & B license)	-	P	P	
School, post secondary	C	-	-	
School, trade and vocational	-	C	C	
Entertainment and Recreation Related				
Recreation, Commercial/Indoor	CM	CM	CM	Note 8
Performing arts production/rehearsal space	CM	CM	CM	
Food Services				
Public eating establishments	P	C	C	Note 8
Health and Veterinary Services				
Emergency ambulance service	CM	CM	CM	
Medical clinic/ out-patient facility	CM	-	-	
General Services				
Crematory	-	CM	C	
Hotel/motel	CM	-	-	
Personal services	P	-	-	Note 8
Photo processing and developing	P	P	P	
Printing and publishing	P	P	P	
Social Service Agency	C	C	C	
Offices and Financial Services				
Automatic Teller Machine	P	P	P	Section 20.80.200
Financial institution	P	CM	CM	Note 8
Offices, business and administrative	P	-	-	
Public, Quasi-Public and Assembly Uses				
Church/Religious Assembly	CM	CM	CM	

Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Residential				
Emergency residential shelter	CM	C	CM	Section 20.80.500
Living quarters, custodian, caretakers	-	-	C	Note 1
Drive-Through Use				
Drive-through in conjunction with any use	CM	CM	CM	
Recycling Uses				
Recycling processing facility	C	S	S	
Recycling transfer facility	C	S	S	
Large collection facility	-	-	P	
Reverse vending	A	A	A	
Small collection facility	A	A	A	
Transportation and Utilities				
Common carrier	-	C	P	
Common carrier depot	S	S	S	Note 2
Community television antenna systems	C	C	C	
Communications service exchange	C	C	C	
Off-site, alternating and alternative use parking arrangements	S	S	S	Section 20.90.200
Parking establishment not Permitted in Tables 20.30, 20.50 and 20.90	C	C	C	
Parking establishment, off-street	C	C	C	
Television, radio studio	C	C	C	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	C	C	C	
Wireless communication antenna	C	C	C	Section 20.100.1300
Wireless communication antenna	S	S	S	Section 20.80.1900
Wireless communication antenna, building mounted	P	P	P	Section 20.80.1910
Electrical Power Generation				
Base Load Facility	-	-	C	
Stationary Peaking Facility	-	C	C	
Transportable Peaking Facility	-	C	C	
Private Power Generation Facility	C	C	C	
Co-Generation Facility	S	S	S	
Stand-by/Backup				
Facilities that do not exceed noise and air standards	A	A	A	
Facilities that do exceed noise and air standards	C	C	C	
Temporary Stand-by-Backup	A	A	A	
Photovoltaic	P	P	P	Note 5
Vehicle Related Uses				
Gas or charge station	CM	CM	CM	Note 3
Gas or charge station with incidental service and repair	CM	CM	CM	Note 4
Leasing passenger vehicles, pick-up trucks not exceeding twenty-five (25) feet in length, and motorcycles	-	C	-	

Table 20-110 Industrial Districts Land Use Regulations				
Use	Zoning District			Applicable Sections & Notes
	IP	LI	HI	
Repair and cleaning of vehicles	-	P	P	Note 7
Sale or lease of commercial trucks, buses, trailers, campers, boats, mobilehomes, construction equipment	-	C	-	
Vehicle wrecking, including sales of parts	-	-	C	

Notes:

1. Site must be seven (7) acres or more.
2. Includes associated office.
3. No incidental repair or service. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.
4. Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail sale of food grocery items or alcoholic beverages may be approved. See Section 20.80.550.
5. Photovoltaic (PV) systems may be processed through a Permit Adjustment.
6. Intentionally left blank.
7. All vehicle-related repair, service, and accessory or other installation, excepting the cleaning of vehicles, shall be conducted within a fully enclosed building.
8. Public eating establishments; financial institutions; personal service establishments; and recreation, commercial/indoor in the IP district are subject to the limitation of the Commercial Support Use, Section 20.50.110. Public eating establishments in the LI or HI districts are limited to a maximum of 650 gross square feet in size.

20.50.110 Commercial Support

Commercial support is Permitted in the IP District subject to the following limitations:

1. Such commercial uses serve the immediate area, and;
2. Such commercial uses are located entirely within buildings occupied by primary uses Permitted in the IP district, and;
3. The sum of all such commercial uses in the buildings occupies no more than five percent (5%) of the gross floor area of any building or no more than 10,000 square feet of any building, whichever is less, and;

4. Such commercial uses are limited to the following:
- a. Retail
 - b. Recreation, Commercial/Indoor
 - c. Personal service establishment
 - d. Public eating establishment
 - e. Financial institution
 - f. Medical clinic
 - g. Amusement game devices, up to nine (9) per business establishment, as an (incident) to one or more of the above enumerated commercial uses.

Part 3 Development Regulations

20.50.200 Development Standards

All development in the Industrial Zoning Districts shall conform to the development regulations set forth below in Table 20-120.

Table 20-120 Industrial Zoning Districts Development Standards				
Regulations	Zoning District			
	IP	LI	HI	Notes
Minimum Lot Area (square feet)	10,000	10,000	6,000	
Minimum Setback (feet)				
Front				Note 1
Building	15	15	15	
Parking and circulation for passenger vehicles	25	20	15	
Parking for trucks & buses	40	30	15	
Loading docks	60 or 100 from residential district	60 or 100 from residential district	15 or 100 from residential district	
Side				Note 2
Building and structures	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	

Cont. on next page

Table 20-120 Industrial Zoning Districts Development Standards				
Regulations	Zoning District			
	IP	LI	HI	Notes
Parking and circulation for passenger vehicles	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	
Parking for trucks & buses	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	
Loading docks	100 from residential district	100 from residential district	100 from residential district	
Rear				Note 3
Building and structures	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	
Parking and circulation for passenger vehicles	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	
Parking for trucks & buses	0 or 25 from residential district	0 or 25 from residential district	0 or 25 from residential district	
Loading docks	100 from residential district	100 from residential district	100 from residential district	
Maximum Height (feet)	45 or subject to General Plan Height Policies	45 or subject to General Plan Height Policies	45 or subject to General Plan Height Policies	Note 4
Minimum street frontage (feet)	60	60	60	
Parking	See Chapter 20.90			

Notes

1. “Front” refers to lot boundaries abutting streets, excluding freeways.
2. “Side” refers to lot boundaries not abutting streets or which abut freeways.
3. “Rear” refers to lot boundaries not abutting streets or which abut freeways.
4. Refer to the San Jose 2020 General Plan, as amended, Urban Design Policies for policies related to height.

20.50.210 Outdoor Uses- IP District

All uses or activities, except parking, Permitted in the IP District shall be conducted entirely within an enclosed building unless the use or activity is traditionally conducted outdoors.

20.50.220 Late Night Use and Activity

- A. No retail commercial establishment in any Industrial District shall be open between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.
- B. No outdoor activity, including loading, sweeping, landscaping or maintenance shall occur within one-hundred fifty (150) feet of any residentially zoned property between the hours of 12:00 midnight and 6:00 A.M. except pursuant to and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

20.50.226 Residential Uses - Prohibition on Provision of Services to Nonresidents

No residential use which includes the provision of service to residents may offer services to nonresidents.

20.50.230 Front Setback - Exception LI and HI Districts

In the LI and HI Districts, the Director may approve reductions of the front setback with a Development Permit, issued pursuant to Chapter 20.100, upon finding that:

- A. A reduced building setback is consistent with setbacks on surrounding properties and necessary to maintain the urban character of the surrounding area; or a reduced parking setback, but only in conjunction with a reduced building setback, is reasonable necessary for consistency with the overall character of the project; or
- B. A loading dock, with such a reduced setback, is located in a building face not exposed to a public street or is located within an area fully screened by solid walls, provided such location will Permit all truck maneuvering to occur on site.

20.50.240 Side and Rear Setback - Exception, LI and HI Districts

In the LI and HI Districts, the Director may approve with a Development Permit, issued pursuant to Chapter 20.100, a side or rear setback of less than twenty-five (25) feet, adjacent to a residence district, upon finding either that such a reduced setback will have no greater negative effect on the residential property than would the twenty-five (25) foot setback or that the reduced setback is not less than the setbacks required on the residential property.

20.50.250 Lighting

- A. All lighting or illumination shall conform with any lighting policy adopted by the City Council.
- B. Light fixture heights should not exceed eight (8) feet when adjacent to residential uses unless the setback of the fixture from property line is twice the height of the fixture. No ground mounted light fixture shall exceed twenty-five (25) feet in height.
- C. Any lighting located adjacent to riparian areas shall be directed downward and away from riparian areas.

20.50.260 Landscaping

- A. The following landscaping requirements shall apply for all sites in the Industrial Districts:
 - 1. All setback areas, exclusive of Permitted off-street parking areas and private egress, or circulation, shall be landscaped.
 - 2. All landscaped areas shall be maintained in perpetuity, and all dead plant materials replaced with viable plant materials in conformance with an approved Permit.
 - 3. A ten (10) foot wide landscape buffer and a seven (7) foot high property line masonry wall is required when a driveway, service yard, loading area or parking lot is adjacent to residential uses.
 - 4. Tree wells in a parking lot shall be a minimum forty (40) square feet, with a minimum five (5) foot net dimension.
 - 5. A four (4) foot high parking screen is required when residential uses are located across the street. Attractive walls, dense landscaping or depressed parking are acceptable screening solutions.
 - 6. All landscaped areas shall be designed and maintained in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," as the same may be amended from time to time.
- B. Landscape guidelines are contained in the Landscape and Irrigation Guidelines, adopted by the City Council, October 1989, Revised March 1993, the San Jose 2020 General Plan, as amended, the Riparian Corridor Policy Study, approved by the City Council, May 17, 1997, the current Guidance Manual on Selection of Stormwater Quality Control Measures, prepared for the Department of Planning, Building, and Code Enforcement,

and the current Post-Construction Urban Runoff Management Policy approved by the City Council.

Part 4

Performance Standards

20.50.300 Performance Standards

- A. In the IP, LI and HI Industrial Districts no primary, secondary, incidental or conditional use or activity related thereto shall be conducted or permitted:
1. In a manner that causes or results in the harmful discharge of any waste materials into or upon the ground, into or within any sanitary or storm sewer system, into or within any water system or water, or into the atmosphere; or
 2. In a manner that constitutes a menace to persons or property or in a manner that is dangerous, obnoxious, or offensive by reason of the creation of a fire, explosion, or other physical hazard, or by reason of air pollution, odor, smoke, noise, dust, vibration, radiation, or fumes; or
 3. In a manner that creates a public or private nuisance.
- B. Without limiting the generality of the preceding subsection, the following specific standards shall apply in the Industrial Zoning Districts:

1. Incineration

There shall be no incineration on any site of any waste material.

2. Vibration

There shall be no activity on any site that causes ground vibration which is perceptible without instruments at the property line of the site.

3. Air Pollution

Total emissions from any use or combination of uses on a site shall not exceed the emissions and health risk thresholds as established by the Director of Planning.

4. Noise

- a. The sound pressure level generated by any use or combination of uses shall not exceed the decibel level at any property line as shown in Table 20-135, except upon issuance and in compliance with a Conditional Use Permit as provided in Chapter 20.100.

Table 20-135 Noise Standards	
	Maximum Noise Level in Decibels at Property Line
Industrial use adjacent to a property used or zoned for residential purposes	55
Industrial use adjacent to a property used or zoned for commercial purposes	60
Industrial use adjacent to a property used or zoned for industrial or use other than commercial or residential purposes	70

CHAPTER 20.60

PD - PLANNED DEVELOPMENT DISTRICT

20.60.010 General Provisions

No building, structure or land shall be used and no building or structure shall be erected, enlarged or structurally altered, or demolished in any Planned Development District, except in accordance with the provisions set forth in this Chapter.

20.60.020 PD District Effectuated

- A. The PD District is effectuated by any of the following:
 - 1. A valid tentative map in compliance with the PD District;
 - 2. A valid Planned Development Permit in compliance with the PD District;
 - 3. A building Permit in compliance with a duly issued PD Permit; or
 - 4. Institution of a use consistent with a duly issued PD Permit.
- B. If the tentative map expires without a final map having been recorded, or if such Planned Development Permit expires without subsequent issuance of a building Permit, or if such building Permit expires without construction having commenced, and if no use consistent with the PD Permit has been instituted, the PD District will be deemed not to have been effectuated.

20.60.030 Uses

The use regulations for territory situate in a Planned Development District shall be as follows:

- A. Unless and until a Planned Development Permit has been issued and been effectuated, property in such territory may be used only as if it were in its base district alone.
- B. If a Planned Development Permit is effective, any use or combination of uses provided for in said Permit is allowed in accordance with and in strict compliance with all terms, provisions and conditions of said Permit. Each Permitted use shall be confined and limited to the particular location designated therefore in said Permit. No use, other than the particular uses specified in the Permit, shall be Permitted, except as set forth elsewhere in this Title 20.
- C. If a Planned Development Permit has been issued, the Planned Development District may nevertheless be disregarded and property in such territory used as if it were in its base

district alone if such use is confined to part of the subject territory not covered by the Permit and a requirement to make such use of such part is not a condition of such Permit.

20.60.040 Development Regulations

- A. Except where a Planned Development Permit has been implemented, the regulations for development, signs, off-street parking and off-street loading applicable to its base district zoning shall apply to all property located in territory in the Planned Development District.
- B. When a PD permit has been implemented, the provisions of such Permit shall prevail over the regulations applicable to the base district zoning of the property. No structure, facility, improvement or sign of any kind shall be constructed upon such property except in strict compliance with all provisions of such PD Permit. In particular:
 - 1. No structure, facility, improvement or sign shall be constructed upon such property except the particular structures, facilities, improvements, and signs specified in such Permit.
 - 2. Each structure, facility, improvement or sign shall have the exact height, floor area, and dimensions specified for it in such Permit.
 - 3. Each structure or facility used for off-street parking and off-street loading shall have the exact number of off-street parking and off-street loading spaces, and other areas, specified for it in such Permit.
 - 4. Each structure, facility, improvement or sign shall be constructed at the particular location and cover the exact surface area designated for it in such Permit.
 - 5. Each structure, facility, improvement and sign shall be constructed and maintained in strict compliance with all conditions of the PD Permit.

20.60.050 Interim Uses

Notwithstanding the provisions of Subsection B of Section 20.60.030 above, Conditional Use Permits issued pursuant to the provisions of Chapter 20.100 of this Title may allow an interim use of the subject property which is not shown in the Planned Development Permit provided that:

- 1. Any such Permit must conform to the Planned Development zoning of the subject property, and
- 2. No such Permit shall be effective for a period in excess of one (1) year. No such Conditional Use Permit shall be renewed for more than one (1) additional one-year period.

20.60.060 Change from Adult to Family Mobilehome Park

Where a mobilehome park is an allowed use in a Planned Development District and such use has been established pursuant to a valid Planned Development Permit, no removal of existing mobilehome spaces shall be required as a result of change of the park from a park where children under eighteen (18) years of age are not Permitted residents, to a park where such children are Permitted to reside, notwithstanding any contrary requirements imposed in a particular Planned Development District or by a particular Planned Development Permit.

20.60.070 Residential Care and Residential Service Facilities

Unless expressly prohibited by the Planned Development Zoning Ordinance, Residential Care and Residential Service Facilities are permitted in any Planned Development Zoning District as follows:

1. Any land zoned or used for one-family or two-family dwellings may be used for a Residential Care or Residential Service Facility for six (6) or fewer persons as a permitted use. Residential Care or Residential Service Facilities for more than (6) persons are not allowed.
2. Any land zoned or used for multiple dwellings may be:
 - a. Used for a Residential Care or Residential Service Facility for six (6) or fewer persons as a permitted use; or
 - b. Used for a Residential Care or Residential Service Facility for seven (7) or more persons in accordance with a Planned Development Permit authorizing such use.
3. Any land zoned or used for any use allowed as a permitted use in the Commercial Zoning Districts, as set forth in Chapter 20.40, may be used for a Residential Care or Residential Service Facility for seven (7) or more persons in accordance with a Planned Development Permit authorizing such use.

20.60.080 Setbacks for Mechanical Equipment

Mechanical equipment, including, but not limited to, pool equipment and HVAC equipment, may be placed in the rear setback and must maintain all of the following setbacks:

- A. A minimum five (5)-foot setback from the rear property line; and
- B. A minimum setback from the side property line of a distance equal to that of the side setback requirements of, or the actual side setbacks allowed under, the particular Planned Development District, and

- C. A minimum front setback of a distance required by or actually allowed under the particular Planned Development District.

CHAPTER 20.70

DOWNTOWN ZONING REGULATIONS

Part 1

General

20.70.010 Applicability

This Chapter shall only apply to properties with a zoning designation consistent with this Chapter and located within the area bounded by Route 87, Julian Street, Fourth Street and Interstate 280, and the area bounded by Julian Street, Route 87, the Union Pacific Railroad line, and Market Street.

20.70.020 Downtown Zoning Districts

- A. This Chapter sets forth the land use and development regulations applicable to the Downtown Zoning Districts established by Section 20.10.060.
- B. No building, structure, or land shall be used, and no building or structure shall be erected, enlarged, or structurally altered, in the DC and DC-NT1 zoning districts except as set forth in this Chapter.

Part 2

Uses Allowed

20.70.100 Allowed Uses and Permit Requirements

- A. “Permitted” land uses are indicated by a “P” on Table 20-140.
- B. “Conditional” uses are indicated by a “C” on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a conditional use permit as set forth in Chapter 20.100.
- C. “Special” uses are indicated by a “S” on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with a special use permit as set forth in Chapter 20.100.
- D. “Administrative” uses are indicated by an “A” on Table 20-140. These uses may be allowed in such designated districts, as an independent use, but only upon issuance of and in compliance with an administrative permit as set forth in Chapter 20.100.

- E. Land uses not permitted are indicated by a “-” on Table 20-140. Land uses not listed on Table 20-140 are not permitted.
- F. The column of Table 20-140, under the heading Additional Use Regulations for the DG Area, identifies further regulations on the uses of ground-floor building space within a portion of the DC Zoning District. The portion of the DC District included in the DG Area is described in Section 20.70.520. These regulations apply to ground-floor building space, defined as Downtown Ground-Floor Space (“DG Area”), in Section 20.70.520 of this Chapter. If there are no additional regulations on properties located in the DG Area noted in this column, the use regulations for the DG Area remain those regulations of the DC Zoning District.
- G. The “Parking” column of Table 20-140 establishes the required parking. The amount of parking may not be increased or decreased unless modified by the Director as set forth in Sections 20.70.320 and 20.70.330 of this Chapter.
- H. When the right column of Table 20-140 includes a reference to a section number or a footnote, the regulations cited in the section number or footnote apply to the use. In addition, all uses are subject to any other applicable provision of this Title 20 and any other title of the San José Municipal Code.

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Offices and Financial Services					
Automatic Teller Machine	P	P		No parking	Section 20.80.200
Business Support	P	P	-, Note l	No parking	-
Financial institution	P	P	S, Note I	1 per 360 sq. ft.*	
Financial Services	P	P	S, Note n	No parking	
Offices, business and administrative	P	P	-, Note j	1 per 360 sq. ft.*	Section 20.70.110
Research and development	P	P	-	1 per 360 sq. ft.*	Note 1
General Retail					
Alcohol, off-site sales	C	C		No parking	Section 20.80.900
Auction	S	-	-	No parking	
Food, beverage, groceries	P	P		No parking	
Open air sales establishments and areas	S	S		No parking	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Outdoor vending	S	S		No parking	Part 10, Chapter 20.80
Pawn Shop, Pawn Broker	C	C	Note b	No parking	
Retail sales, goods and merchandise	P	P	Note a	No parking	
Seasonal sales	P	P		No parking	Part 14, Chapter 20.80
Education and Training					
Day care center	P	P	S, Note c	No parking	
Post-secondary School	P	P	-	1 per 360 sq. ft.	
Trade School	P	P	-	1 per 360 sq. ft.	
Personal enrichment, Instructional Art	P	P	-, Note d	1 per 360 sq. ft.	
School, elementary (grades K-8)	C	C	-	1 per teacher and employee	
High School (grades 9-12)	C	C	-	.75 per teacher and employee and 1 per each 10 students	
Entertainment and Recreation Related					
Amusement arcade	C	-	Note e	No parking	
Entertainment establishment	C	-		No parking	
Movie Theater	P	P		No parking	
Recreation Commercial/Indoor	P	P		No parking	
Poolroom	S	-		No parking	
Private club or lodge	P	P	-	1 per 360 sq. ft.	
Food Services					
Banquet facility	P	P	Note f	No parking required	
Caterer	P	P	C, Note f	No parking	
Drinking establishments	C	C		No parking	
Entertainment as an incidental use to any General Retail or Food Services Use permitted in the Downtown Zoning Districts	P	P		No parking	Note 7
Public eating establishments	P	P		No parking	
Health and Veterinary Services					
Animal grooming	S	S	-	No parking	Note 2
Animal Boarding, indoor	P	P	-	No parking	
Emergency ambulance service	C	-	-	No parking	
Hospital/ in-patient medical facility	C	-	-	1.5 per doctor	
Medical or Dental Clinic/Out-patient facility	P	P	-	1.5 per doctor	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Veterinarian	P	P	-	1.5 per doctor	
General Services					
Bed and breakfast	P	P	S, Note m	.35 per room	Part 2, Chapter 20.80
Hotel/motel	P	P	-, Note m	.35 per room	
Maintenance and repair of household appliances	P	P	-	No parking	
Mortuary and funeral services	C	C	-	.75 per employee and vehicle	
Personal Services	P	P	Note g	No parking	-
Printing and Publishing	P	P	Note h	No parking	
Public, Quasi-Public and Assembly Uses					
Auditorium	C	-	-	No parking	
Cemetery	C	C	-	No parking	
Church/religious assembly	P	P		No parking	
Information Center	P	P		No parking	
Museums, libraries	P	-	P	No parking	
Parks, playgrounds, or community centers	P	P	Note k	No parking	
Residential					
Residential Shelter	C	-	-	1 per 4 beds, 1 per 360 sq.ft.*	
Live/work	P	S		1 per unit	Section 20.70.120
Residential multiple dwelling	P	P	-	1 per unit	
Residential Care Facility for 7 or more persons	C	C	-	.75 per employee	
Residential Services Facility for 7 or more persons	C	C	-	.75 per employee	
Single room occupancy living unit	S	S	-	.6 per room	Part 15, Chapter 20.80
Single room occupancy hotel	S	S	-	.6 per room	Park 15, Chapter 20.80
Residential Accessory Uses					
Accessory buildings and structures	P	P	-	No parking	
Recycling Uses					
Reverse vending	S	S	-	No parking	Note 4
Small collection facility	S	S	-	No parking	Note 4
Transportation and Communication					
Community television antenna systems	C	-	-	No parking	

Table 20-140 Downtown Districts Land Use Regulations					
Use	Zoning Districts		Applicable Notes & Sections		
	DC	DC-NT1	Additional Use Regulations for the DG Area	Parking	Applicable to All Downtown Districts
Off-site and alternating use parking arrangements	P	P	-	N/A	Section 20.90.200
Parking establishment, off-street	P	P	-	N/A	
Private Electrical Power Generation Facility	C	C	-	1 for each vehicle used in the operation of such facility	
Standby Generators that do not exceed noise or air standards	S	S	-	N/A	
Short term parking lot for uses or events other than on-site	S	S		N/A	
Radio & Television Studios	S	-	C	No parking	
Wireless communication antenna	S	-	-	No parking	Section 20.80.1900
Wireless communication antenna, building mounted	P	-	-	No parking	Section 20.80.1900
Vehicle Related Uses					
Accessory installation for cars and passenger trucks	P	-	-	No parking	
Car wash, detailing	P	-	-	No parking	
Gas or charge station	P	-	-	No parking	Note 4
Gas or charge station with incidental service and repair	P	-	-	No parking	Note 4
Sale and lease, vehicles and equipment (less than one ton)	P	-	-	1.5 per employee	Note 5
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	P	-	-	2 per bay or .75 per employee	Note 6
Sale, vehicle parts, new	P	-	-	No parking required	

Notes:

Notes applicable to the DG Area only:

- (a) Excluding second-hand stores not dealing primarily in antiques, artworks, or vintage clothing.
- (b) Only as a use incidental to a retail jewelry store, otherwise, not permitted.
- (c) Only as a use incidental to existing on-site office use, otherwise not permitted.
- (d) Culinary/Art School with public classes and public demonstrations allowed, includes such areas as dance, music, martial arts, and fine arts.
- (e) Allowed only as an incidental use to other allowed recreation uses.
- (f) Only as a use incidental to restaurant, grocery or bakery uses for primarily on site sales, otherwise not permitted.
- (g) Excludes check-cashing services, photography studios, weight loss centers, interior decorating, and bail bond services.
- (h) Only if dedicated primarily to on-site retail customer copy services, otherwise not permitted.
- (i) Only if dedicated primarily to on-site retail customer services, otherwise not permitted.
- (j) Exception for travel agencies and real estate agencies which are the only permitted uses.

- (k) Community centers are not allowed.
- (l) Exception for copy shops and mail centers which are the only permitted uses.
- (m) Use of ground floor to be primarily dedicated to customer-related public services.
- (n) Includes financial retail services such as payroll advances, foreign currency exchange, debt card services and related financial services products but excludes check cashing except as an ancillary use.

Notes applicable to Downtown Core (DC) Zoning District, including DG Area:

- (1) Excludes manufacturing uses.
- (2) Boarding not permitted.
- (3) No lot may be used solely for an accessory structure or building.
- (4) Incidental repair includes air conditioning service, carburetor & fuel injection service, electrical service, radiator service, and tune-up, lube, oil change, and smog check, as well as tires, batteries and accessories installation. Does not allow body repair or painting. No retail sale of food, grocery items or alcoholic beverages may be approved. See Section 20.80.550.
- (5) All activity must be conducted indoors.
- (6) Non-engine and exhaust related service and repair allowed as incidental use.
- (7) Limited to instrumental and vocal music and readings. Also, notwithstanding the provisions of Section 20.200.940(2), incidental instrumental and vocal music shall be allowed between the hours of 6:00 a.m. and 12:00 a.m.

- * Under the Parking Management Plan, October 2001, the Code may be changed to reduce the parking allotments for these uses. The reduction would be to 2.6 spaces per 1,000 square feet when the Downtown East Valley Light Rail Line is opened, and would be further reduced to 2.5 spaces per 1,000 square feet when BART is opened.

Fifteen percent (15%) of total parking requirement must be provided off-site.

20.70.110 Development Within or Adjacent to Historic Landmarks or Districts

- A. Any project within a Historic District shall conform to applicable guidelines adopted, and as amended, by the City Council.
- B. For purposes of this Section, historic district and historic landmark refer to any site, building, structure, or area that has received city, state or federal landmark status.
- C. New structures exceeding 150 feet and an FAR of 6:1 which are constructed within one hundred (100) feet of a City Landmark or Contributing Structure in a designated landmark district shall be reviewed by the Historic Landmarks Commission prior to consideration or approval of a development permit for new construction. The comments of the Historic Landmarks Commission shall be included in any development permit staff report subsequently presented to the Executive Director of the Redevelopment Agency, Director of Planning, Planning Commission or City Council.

20.70.120 Live/work Units

All live-work uses in the Downtown Zoning Districts shall be subject to all of the following criteria:

- A. All Work activities shall be limited to the Permitted Uses of the Downtown Zoning Districts, specified in Table 20-140, unless otherwise noted in this Chapter.
- B. All work activities and storage shall take place in fully enclosed areas.
- C. Prohibited Uses:
 - 1. Any use not permitted within the Downtown Zoning Districts, as specified in Table 20-140 or under Section 20.80.720 for home occupation uses.
 - 2. Entertainment, Drinking and Public Eating Establishments.
 - 3. The sale of food and/or beverages.
 - 4. Veterinary services, including grooming and boarding, and the breeding or care of animals for hire or for sale.
 - 5. Storage or recycling, except as incidental to and in support of a permitted use in the Downtown Zoning Districts.
 - 6. Activities involving biological or chemical substances that require a controlled environment or may pose a health hazard.
 - 7. Work activities that involve hazardous material or generate odors, vibration, glare, fumes, dust, electrical interference outside the dwelling or through vertical separation between living units, greater than those generated by routine household activities.
- D. Only occupants of the dwelling may be employees or unpaid volunteers of the business or commercial activity.
- E. All live/work units must fully comply with any and all Uniform Building Code requirements applicable to the collocation of uses at the particular site.

Part 3

Development Regulations

20.70.200 Height, DC Districts

- A. Except as otherwise specified in this Chapter, properties located in the Downtown Zoning districts shall only be subject to the height limitations necessary for the safe operation of San José International Airport.
- B. No building or structure, together with any equipment or objects attached to such building or structure, shall be permitted of a height that exceeds the elevation restrictions

prescribed under Federal Aviation Regulations Part 77 (14 C.F.R. Part 77), as amended, unless the proposed height is specifically reviewed in an aeronautical study prepared by the Federal Aviation Administration in accordance with such federal regulations and the study concludes that the proposed building or structure does not constitute an obstruction or hazard to air operations.

20.70.210 Setback Requirements, DC Districts

Except as otherwise specified in this Chapter, properties located in the DC districts shall not be subject to any minimum setback requirements.

20.70.220 Development Regulations – DC-NT1 District

All development regulations in the DC-NT1 District shall conform to the development regulations set forth below in Table 20-150.

Table 20-150				
Location	Height Limit*	Setback*	Special Conditions*	Supplemental Standards*
Balbach (South side, between Almaden Avenue and Almaden Boulevard)		10 feet	50 foot setback required for portions of buildings above 70 feet	
Almaden Avenue (West side between Balbach and Reed Streets)	35 feet or 2 ½ stories			
Almaden Boulevard (East side between Almaden Blvd. and Almaden Avenue between Balbach Street and I-280)	70 feet (to a maximum depth of 100 feet)		Planning Commission may allow heights up to 100 feet to a maximum depth of 100 feet from Almaden Blvd and at a minimum distance of 50 feet from Balbach, if Design Guidelines are met	Portions of buildings higher than 70 feet shall be: <ul style="list-style-type: none"> Limited to 100 feet in length and a diagonal no greater than 125 feet. Shorter side to be generally parallel to Almaden Blvd Set back one foot from common property lines for each two feet in excess of 70 feet
Market Street (west side, Balbach to Pierce)	60 feet	Front and side setbacks not permitted		Setbacks allowed for recessed entries
Market Street (west side, Pierce to Hwy 280)	120 feet	Minimum 10 feet to residential property line		Height may not exceed a slope of 3:2, as measured from ground level at the adjacent residentially zoned property line

*Where no standard is specified, the development standards of the DC District shall prevail

Part 4

Downtown Off-Street Parking Requirements

20.70.300 Downtown Parking Management Zone – Creation

A Downtown Parking Management Zone is hereby established, being those properties in the Downtown Zoning Districts.

20.70.310 Definitions

All references to “Off-street parking space” in this Chapter shall have the definition set forth in 20.90.050 of this Title.

20.70.320 Downtown Parking Management Zone – Minimum Off-Street Parking Requirements

The minimum number of off-street parking spaces required for uses conducted in the Downtown Parking Management Zone is shown on Table 20-140 under the column titled “Parking”. Whenever the minimum number of off-street parking spaces required for use is not specified in Table 20-140, the Director shall determine which of the specified uses is most similar to the unspecified use, and the minimum requirement for that specified use shall apply. All references to building square footage shall be based on “floor area” in Section 20.90.050.

20.70.330 Reduction of Requirement

In addition to exceptions provided for under Section 20.90.200, the following reductions in parking requirements may be made by the Director:

- A. The Director may grant up to a fifteen percent (15%) reduction in the number of spaces required as part of the issuance of a development permit where the reduced number of spaces will be adequate to meet the parking demand generated by the project when the following findings are made:
 - 1. The project has developed a Travel Demand Management (TDM) program that provides evidence that a TDM program will reduce parking demand and identifies the percentage of parking demand that will be reduced through the TDM program. The TDM program will incorporate one (1) or more elements of TDM including, but not limited to measures such as Ecopass, parking cash-out, alternate work schedules, ride sharing, Transit Support, Carpool/Vanpools, shared parking, or any other reasonable measures; and
 - 2. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided

and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.

- B. For mixed use projects, the Director may reduce the required parking spaces by up to fifty percent (50%), including any other exceptions or reductions as allowed under Title 20, upon making the following findings:
 - 1. That the reduction in parking will not adversely affect surrounding projects;
 - 2. That the reduction in parking will not be dependent upon public parking supply; or reduce the surrounding public parking supply; and
 - 3. The project demonstrates that it can maintain the TDM program for the life of the project and it is reasonably certain that the parking shall continue to be provided and maintained at the same location for the services of the building or use for which such parking is required, during the life of the building or use.
- C. The total parking required for a project may be reduced by up to one hundred percent (100%) as part of a development permit where public parking is provided on-site as part of a public or private development project. Public parking spaces may be applied toward the parking requirements for the use applying no more than a one-for-one standard. The finding shall be made in the development permit by the Director and be based on an alternate peak use, shared parking or parking demand analysis.
- D. The project will provide replacement parking either on site, off-site within reasonable walking distance or pay the current in-lieu fee for the parking required if the project fails to maintain a TDM program.

20.70.340 Increase in Allowed Parking

The Director may increase the number of parking spaces allowed for a particular use as part of issuing a development permit where the allowed number of spaces will be inadequate to meet the parking demand when the following findings are made:

- A. The number of parking spaces allowed is inadequate to meet the parking requirements of the individual buildings and uses;
- B. The available off-site facilities are not accessible to the building or adequate for uses to be served.

20.70.350 Tandem Parking

- A. The Director may issue a development permit to allow tandem parking spaces to satisfy up to fifty (50%) percent of the required off-street parking.

- B. This permit shall be issued only upon a finding, based on an adequate parking management plan, that the reconfiguration of spaces will be adequate to meet the parking demand generated by the project.
- C. This finding shall be based upon a parking demand analysis which may include, without limitation, alternate peak use of parking spaces, shared parking, proximity to public transit.

20.70.360 Nonconforming Prior Uses

Any structure in the Downtown Parking Management Zone legally instituted prior to April 30, 2004 shall be a legal nonconforming use for purposes of this Part.

20.70.370 Enlargement, Intensification or Change in Use

- A. Any structure which is a legal nonconforming use pursuant to Chapter 20.150 is exempted from the application of this Part, except to the extent of the construction of any additional structure or enlargement of the existing structure.
- B. New structures on parcels that are ten thousand (10,000) square feet or less with up to thirty thousand (30,000) square feet of building area do not need to provide parking.
- C. Additions to structures totaling less than twenty percent (20%) of the existing structure are exempt from providing parking.
- D. Additions to a historic landmark, structures in a historic district, or contributing structures to a historic district, do not need to provide parking if the addition conforms to the Secretary of Interior Historic Design (“Guidelines”).

20.70.380 Amount of In-Lieu Fees

The amount of the in-lieu off-street parking fee shall be set forth in the schedule of fees established by resolution of the City Council.

20.70.385 In-Lieu Fee Fund

A special fund exists entitled, “The Downtown Parking Management Zone Off-Street Parking In-Lieu Fee Fund”. Any in-lieu off-street parking fee collected shall be deposited in said special fund. Moneys deposited in the Downtown Parking Management Zone Off-Street Parking In-Lieu Fee Fund shall be expended only to acquire sites for, and/or pay costs of the construction of, public off-street parking facilities in or near the Downtown Parking Management Zone.

20.70.390 Preferred Parking

- A. When payment of the in-lieu off-street parking fee has been made, the owners of the subject property may be given preference in the leasing of monthly parking spaces in City off-street parking facilities which are located within reasonable walking distance of the subject property, if such spaces are available. Such spaces may be made available on a monthly basis.
- B. The number of preferential parking spaces shall not exceed the number of required off-street parking spaces for which the in-lieu fee was paid. The preferences under this Section shall remain in effect for a period not to exceed twenty (20) years from date of the issuance of the building permit or the acceptance of the conditional use permit. The granting of these preferences, in any case, shall be at the sole discretion of the City and may be withdrawn at any time once granted.

20.70.395 Inconsistent Provisions

- A. This Part shall control over any inconsistent provisions of this Title. All other requirements set forth in this Chapter, not inconsistent with this Part, shall control over any other inconsistent provisions of this Title.
- B. No variance or exception pursuant to Part 11 of Chapter 20.100 shall apply to any requirement specified in this part.

Part 5 Downtown Off-Street Loading Requirements

20.70.400 General

Properties in the Downtown Zoning Districts shall be subject to the off-street loading requirements of this Part.

20.70.410 Definitions

All references to “Off-Street Loading” in this Chapter shall have the definition set forth in 20.90.400 of this Title.

20.70.410 Exemption for Additions to Historic Buildings

Notwithstanding any other provision of this Title, an addition to a city landmark that increases the original net square feet of the building by up to one hundred (100%) percent shall be exempt from all off-street loading requirements.

20.70.420 Professional Offices

Offices with one hundred thousand to one hundred seventy five thousand (100,000 - 175,000) square feet of total gross floor area shall provide one (1) loading space. One additional loading space shall be included for each one hundred thousand (100,000) square feet of total gross floor area in excess of one hundred seventy five thousand (175,000) square feet.

20.70.430 Retail and Commercial Uses

- A. Retail and commercial stores and shops, restaurants, bars and drug stores greater than ten thousand (10,000) GFA and less than thirty thousand one (30,001) GFA shall provide one (1) loading space.
- B. Retail and commercial stores and shops, restaurants, bars and drug stores greater than 30,000 GFA and less than 50,001 GFA shall provide two (2) loading spaces.
- C. Retail and commercial stores and shops, restaurants, bars and drug stores greater than 50,000 GFA shall provide two loading spaces plus one (1) loading space for each 25,000 GFA over 50,000 GFA.

20.70.435 Loading Spaces for Residential Uses

- A. Multiple dwelling residential uses of greater than fifty (50) units and less than two hundred (200) units shall provide at least one (1) off-street loading space.
- B. Multiple dwelling residential uses of two hundred (200) units or greater and less than five hundred (500) units shall provide at least two (2) off-street loading spaces.
- C. Multiple dwelling residential uses of five hundred (500) units or more shall provide at least three (3) off-street loading spaces.

20.70.440 Hotel and Other Uses

- A. Hotels and all other uses not addressed under Sections 20.70.430 or 20.70.435 of this Part of greater than one hundred thousand (100,000) GFA and less than two hundred thousand one (200,001) GFA shall provide at least one (1) off-street loading space.
- B. Hotels and all other uses not addressed under Sections 20.70.430 or 20.70.435 of greater than two hundred thousand (200,000) GFA and less than five hundred thousand one (500,001) GFA shall provide at least two (2) off-street loading spaces.
- C. Hotels and all other uses not addressed under Sections 20.70.430 or 20.70.435 of greater than five hundred thousand one (500,001) GFA shall provide at least two (2) off-street loading spaces plus at least one (1) additional off-street loading space for each four

hundred thousand (400,000) GFA increment above the initial five hundred thousand one (500,001) GFA.

20.70.450 Reduction of Requirement

- A. The Director may authorize the reduction of two (2) on-site loading spaces to one (1) on-site loading space in connection with the issuance of development permit if the Director finds that sufficient on-street loading space exists to accommodate circulation and manipulation of freight.
- B. The Director may reduce the number of off-street loading spaces based on the available loading space within the public right-of-way.

20.70.460 Standards

Loading spaces, driveways and maneuvering space in on-site loading areas shall comply with Sections 20.90.420 through 20.90.430.

20.70.470 Recycling

Any new structure approved pursuant to this Title shall provide facilities, circulation and maneuvering space to accommodate participation in the City's recycling program.

20.70.480 Garbage Enclosure

Any use that generates garbage, as defined in Section 9.10.120 of this Code, shall provide an enclosed and ventilated space with drain and wash systems adequate to accommodate anticipated waste.

Part 6 General Regulations

20.70.500 Design Guidelines

For any project in the Downtown Zoning districts that are subject to a development permit, that project shall be subject to design guidelines adopted by the City Council for the applicable area.

20.70.510 Late Night Uses and Activity

- A. No retail commercial establishment, entertainment establishment (without alcohol) shall be open between the hours of 12:00 midnight and 6:00 A.M. in the DC and DC-NT1 districts except with a special use permit as provided in Chapter 20.180 of this Title.

- B. No drinking establishment shall be open between the hours of 12:00 midnight and 6:00 A.M. in the DC or DC-NT1 districts except with a conditional use permit as provided in Chapter 20.100 of this Title.

20.70.520 Definitions of DG Overlay Area

- A. “Downtown ground-floor space” (“DG”) means any ground-floor, street frontage, building space that is located within any one of the areas described below:
- Both sides of Santa Clara Street, between San Pedro Street and Second Street;
 - Both sides of Fountain Alley, between First Street and Second Street;
 - Both sides of Post Street, between Lightson Street and First Street;
 - Both sides of San Fernando Street, between Market Street and Fourth Street;
 - Both sides of Park Avenue from Market Street, continuing westerly for 500 feet;
 - Both sides of Paseo de San Antonio, between Market Street and Fourth Street;
 - Both sides of San Carlos Street, between Market Street and Fourth Street;
 - Both sides of San Pedro Street, between St. John Street and Santa Clara Street;
 - Both sides of Market Street, between San Fernando and San Carlos Street;
 - Both sides of First Street, between Santa Clara Street and San Carlos Street;
 - Both sides of Second Street, between Santa Clara Street and San Carlos Street;
 - East side of Third Street, from 463 feet north of San Fernando Street to the north side of San Fernando Street;
 - Both sides of Third Street, from San Fernando Street to 270 feet south of San Fernando Street;
 - Both sides of Fourth Street, from 463 feet north of San Fernando Street to the north side of San Fernando Street; and
 - West side of Fourth Street, from the south side of San Fernando Street to 270 feet south of San Fernando Street.
- B. Tenant spaces in the DG overlay district area shall include ground-floor space that can be segregated from the street frontage portion of the space, in a manner consistent with all applicable codes (as is required by existing law and practice) and that leaves a viable store front space. The clear-height for the ground-floor uses and the available depth of such space shall be adequate to accommodate retail uses consistent with the predominant character of retail uses in the immediate vicinity, or to promote a theme or identity of the larger area in which it is located.

Part 7

Permit Review Procedures

20.70.600 General

Except as otherwise provided in this Chapter:

- A. Issuance of any development permits required by this Chapter shall be governed by Chapters 20.100 of this Code.
- B. Issuance of permits or approvals relating to nonconforming uses in the DC and DC-NT1 downtown districts shall be governed by Chapter 20.150 of this Code.
- C. Issuance of any variances for properties in the DC and DC-NT1 district shall be governed by Part 11 of Chapter 20.100 of this Code.

CHAPTER 20.80

SPECIFIC USE REGULATIONS

Part 1 **Adult Uses**

20.80.010 Businesses Involving Nude Activity

- A. No business otherwise permitted in any district shall be permitted on any lot or parcel of land any part of which is located within five hundred (500) feet of the campus of any public or private elementary or secondary school (schools containing grades kindergarten through twelfth grade or any one or more of such grades), or any child day care center:
 - 1. If the business is an establishment which serves food, beverages, or food and beverages, including, but not limited to, alcoholic beverages, for consumption on premises of such establishment and if any person who acts as a waiter, waitress, or entertainer (with or without compensation) in such establishment does so in the nude; or
 - 2. If in the conduct of such business, any live act, demonstrations, or exhibitions occur by persons in the nude in public places, or places open to public view.
- B. The provisions of this Section shall not apply to any theater, concert hall, or similar establishment which is primarily devoted to theatrical performances.
- C. For the purposes of this Section, a person shall be deemed to be nude if:
 - 1. In the case of a male person, his genitals, pubic areas, or buttocks are visible.
 - 2. In the case of a female person, (i) her genitals, pubic areas, or buttocks are visible, or (ii) the nipple or areola of either of her breasts is visible.

20.80.020 Anti-Skid Row Regulations

- A. The purpose of this Part is to provide reasonable regulations to prevent the adverse effect of the concentration or clustering of certain uses of real property, specifically adult book/video stores, adult motion picture theaters, adult entertainment establishment, and massage parlors, and to prevent the location of such uses in the Downtown Core Area, which is the subject of an extensive revitalization process in order to counter the past trends of deterioration and economic decline.

- B. No lot or any structure thereon or any portion thereof shall be used for an adult book/video store, adult motion picture theater, adult entertainment establishment or massage parlor unless said lot, parcel, building or structure is located in a CG Commercial District, or in a Planned Development district that allows uses of the CG Commercial District, and is located outside the Downtown Core area as that area is defined in the City's General Plan.
- C. Notwithstanding anything elsewhere in this Code to the contrary, no lot in any zoning district or any structure thereon or any portion thereof, shall be used for an adult book/video store, adult motion picture theater, adult entertainment establishment or massage parlor at a location closer than two hundred (200) feet to any other such use situate within or outside the City, except that a massage parlor meeting all of the following criteria may be located at a distance closer than two hundred (200) feet to another massage parlor that also meets all of the following criteria:
1. The massage parlor is located on a commercial site that is at least thirty-five (35) acres in size; and
 2. The commercial site has a General Plan designation of Regional Commercial; and
 3. The massage parlor is fully contained within a commercial center or facility, which center or facility has an aggregate square footage of at least two hundred fifty thousand (250,000) square feet.
- D. For purposes of this Section, a “commercial site” means an area comprising a group of contiguous parcels of land that was or is being developed under a single planning process and coordinated implementation, such as a single permit, that addresses uses and development on the entirety of the contiguous parcels within the area. Contiguous parcels does not include parcels separated by a public right-of-way.

20.80.030 Prohibition of Certain Uses Within Two Hundred Feet of Residentially Zoned Property or Within Five Hundred Feet of Schools

- A. The purpose of this Section is to prevent the adverse effect of the location of certain uses of real property, specifically adult book/video stores, adult motion picture theaters, adult entertainment establishment, and massage parlors, in close proximity to residentially zoned property or schools.
- B. Notwithstanding anything elsewhere in this Code to the contrary, no lot or parcel of property in any zoning district or any building or structure thereon or any portion thereof, shall be used for an adult book/video store, adult motion picture theater, adult entertainment establishment or massage parlor at a location closer than two hundred (200) feet to any lot or parcel, within or outside the City, situated in a residential district or TM District, except that a massage parlor meeting all of the following criteria may be located at a distance closer than two hundred (200) feet to a lot or parcel, within or outside the City, situated in a residential district or TM District:

1. The massage parlor is located on a commercial site that is at least thirty-five (35) acres in size; and
 2. The commercial site has a General Plan designation of Regional Commercial; and
 3. The massage parlor is fully contained within a commercial center or facility, which center or facility has an aggregate square footage of at least two hundred fifty thousand (250,000) square feet.
- C. Notwithstanding anything elsewhere in this Code to the contrary, no lot or parcel of property in any zoning district or any building or structure thereon or any portion thereof, shall be used for an adult book/video store, adult motion picture theater, adult entertainment establishment or massage parlor at a location closer than five hundred (500) feet from any school, college or university within or outside the City.
- D. For purposes of this Section, a “commercial site” means an area comprising a group of contiguous parcels of land that was or is being developed under a single planning process and coordinated implementation, such as a single permit, that addresses uses and development on the entirety of the contiguous parcels within the area. Contiguous parcels does not include parcels separated by a public right-of-way.

20.80.040 Amortization - Annexed Property

Any Adult use as defined in Sections 20.200.050, 20.200.060, 20.200.070 or 20.200.740 of this Title which was a legal use at the time of annexation of the property into the City but which does not conform to the provisions of this Chapter shall be terminated within two years of the date of annexation, unless an extension of time has been approved by the City Council in accordance with the provisions of Section 20.80.050.

20.80.050 Extension of Time for Termination of Nonconforming Use

- A. The operator of a nonconforming use as described in Section 20.80.040 may apply under the provisions of this Section to the City Council for an extension of time within which to terminate the nonconforming use.
- B. An application for an extension of time within which to terminate a use made nonconforming upon annexation may be filed by the owner of the real property upon which such use is operated or by the operator of the use. Such an application must be filed with the City Clerk at least ninety (90) days but no more than one hundred eighty (180) days prior to the time established in Section 20.80.040 for termination of such use.
- C. The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be as set forth in the Schedule of Fees established by resolution of the City Council.

- D. Upon filing of an application for extension, the City Clerk shall, subject to the rules of the City Council, set a date for a public hearing which shall be held by the City Council on the application. The hearing date shall be not less than twenty (20) nor more than sixty (60) days from the date the application was filed and all filing fees were paid.
- E. The City Clerk shall cause notice of the time and place of the hearing on the application to be given in accordance with the procedure set forth in Section 20.100.190 of this Title.
- F. Within a reasonable time after the public hearing on an application for extension has been conducted, the City Council shall by resolution take action on the request for the extension. Unless the extension is approved by at least a majority of the Council, it shall be deemed denied. An extension under the provisions of this Section shall be for no more than one (1) year and shall be approved only if the City Council makes all of the following findings:
 - 1. The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to annexation.
 - 2. The applicant will be unable to recoup said investment as of the date established for termination of the use.
 - 3. The applicant has made good faith efforts to recoup the investment and to relocate the use to a location in conformance with this Chapter.

Part 2

Bed & Breakfast Inns

20.80.110 Bed and Breakfast Inns - Criteria for Approval

- A. No Development Permit may be issued for a bed and breakfast inn unless the following criteria are met:
 - 1. The inn is owner-occupied.
 - 2. The building is of historical and/or architectural significance and was designed for residential occupancy.
 - 3. No separate cooking facilities for guests are provided.
 - 4. No more than one daily meal, breakfast, is served to guests.
 - 5. No more than one (1) guest room has an external entryway.

6. No guest may occupy accommodations in the inn for more than fourteen (14) days in any three (3) month period.
 7. A certificate of occupancy for Group R occupancy is obtained from the City Building Division, and all applicable building and fire regulations are met.
 8. Any loan funds provided by the City of San Jose or the Redevelopment Agency for rehabilitation and/or repair of the subject building as a residential building have been repaid in full.
- B. The criteria set forth in Subsection A above shall be deemed to be conditions of any Development Permit for a bed and breakfast inn, and failure to adhere to said criteria shall be a violation of this Title.
 - C. All Development Permits for a bed and breakfast inn shall set forth the maximum number of guest rooms or guests that may occupy the premises, at any given time, for overnight lodging.

Part 3

Buildings Under Five Hundred Square Feet

20.80.200 Buildings Under Five Hundred Square Feet

- A. No use shall be conducted in any building containing five hundred square feet or less of floor area in the CO Office Commercial and less restrictive districts, as such order of restrictiveness is set forth in Section 20.10.060, except upon issuance of and in compliance with a Special Use Permit as provided in this Title.
- B. This Section shall not apply to off-street parking lot attendant booths, temporary trailers which have been permitted pursuant to this Title, or to any residential accessory building.
- C. Notwithstanding Subsections A and B, temporary structures and buildings not exceeding one hundred twenty (120) square feet in floor area may be permitted in conjunction with the seasonal outdoor sale of Halloween pumpkins and Christmas trees, as permitted by Part 4 of Chapter 20.80 without a Special Use Permit.

Part 4

Conversion of Residential Dwellings

20.80.300 Conversion of Dwellings, Permit Required

- A. No one-family dwelling in any District shall be converted to any other use except upon issuance of and in compliance with a:
 - 1. Site Development Permit for conversion to a two-family dwelling or a multiple dwelling; or
 - 2. Special Use Permit for conversion to any nonresidential use identified as a permitted, or special use in the District with the one-family dwelling; or
 - 3. Conditional Use Permit for conversion to any nonresidential use identified as a conditional use in the District with the one-family dwelling.
- B. No two-family dwelling or multiple dwelling in any District shall be converted to any other use except upon issuance of and in compliance with a:
 - 1. Site Development Permit for conversion to a one-family, two-family, or multiple dwelling; or
 - 2. Special Use Permit for conversion to any nonresidential use identified as a permitted, or special use in the District with the two-family or multiple-family dwelling; or
 - 3. Conditional Use Permit for conversion to any nonresidential use identified as a conditional use in the District with the two-family or multiple-family dwelling.
- C. Nothing contained in this Section shall be deemed or construed to permit approval of any one-family dwelling, two-family dwelling or multiple dwelling use in any District in which such use is not otherwise allowed pursuant to the provisions of Chapters 20.20 through 20.70 of this Title.

Part 5

Demolition or Removal of Buildings

20.80.410 Demolition Permit Defined

For the purpose of this Part, "demolition permit" means a building permit issued by the Building Division pursuant to Section 301 of the Uniform Building Code, as adopted pursuant to the

provisions of Chapter 24.02 of Title 24 of this Code, for the purpose of allowing the demolition of a structure.

20.80.420 Demolition Defined

For the purpose of this Part, "demolition" means removal of more than fifty percent (50%) of the exterior walls of a building.

1. A wall, or portion of a wall, is deemed "removed" when its structure is removed or moved to another location or elevation on site, or when the wall is enclosed behind newly constructed space.
2. For the purposes of calculating the amount of exterior walls removed, the remaining exterior walls must be contiguous.
3. Removal and replication of framing and/or siding for purposes of repair only does not constitute removal or demolition.

20.80.430 Removal Permit Defined

For the purpose of this Part, "removal permit" means a building removal permit which is issued pursuant to Chapter 17.36 of Title 17 of this Code for the purpose of moving a building over public streets.

20.80.440 Development Permit Required

- A. Except as specifically exempted by Section 20.80.450, no Demolition Permit or Removal Permit shall be issued unless and until a Development Permit which specifically approves such demolition or removal has been issued and has become effective pursuant to the provisions of Chapter 20.100 and the provisions of this Part.
- B. A Special Use Permit or other applicable Development Permit shall be required for the following:
 1. Demolition of a building which would not otherwise require a Development Permit pursuant to the requirements of Chapter 20.100; and/or
 2. Removal of a building from a parcel located within the City of San Jose; and/or
 3. Relocation of a building to a parcel located within the City of San Jose.
- C. The approval of a Development Permit which allows the demolition, removal or relocation of a building shall expressly include consideration of the criteria set forth in Section 20.80.460 of this Part.

- D. Nothing herein shall waive any requirement for a Demolition or Removal Permit pursuant to the provisions of Title 17 of this Code.

20.80.450 Exemption From Development Permit Requirement

No Development Permit shall be required for the following:

1. Demolition or removal of a single family home, as defined by Section 20.80.420 of this Title, when:
 - a. A Single Family House Permit is not required by Chapter 20.100 of this Title; and
 - b. Building permits have been issued for a replacement single family house.
2. Demolition or removal of a building where such demolition or removal is pursuant to the approval of a non-residential development project funded by a public entity.
3. Demolition or removal of a building which the City Building Official has determined to be an immediate threat to public health or safety.
4. Demolition or removal of a building that has been ordered to be removed or demolished by the Appeals Hearing Board or by a court of law.
5. Demolition or removal of residential accessory structures, as defined in Section 20.80.420 of this Title and Section 20.80.430, and for commercial or industrial buildings no greater than 1,000 square feet, except for properties listed on the Historic Resources Inventory.
6. Demolition or removal of a building which is required under the provisions of Part 3 of Chapter 17.40 of Title 17 of this Code.

20.80.460 Evaluation Criteria for Issuance of Permit

Prior to the issuance of any development permit which allows for the demolition, removal or relocation of a building, the Director, or on appeal the Planning Commission or City Council, shall determine whether the benefits of permitting the demolition, removal or relocation outweigh the impacts of the demolition, removal or relocation. In making such a determination, the following shall be considered:

1. The failure to approve the permit would result in the creation or continued existence of a nuisance, blight or dangerous condition;
2. The failure to approve the permit would jeopardize public health, safety or welfare;

3. The approval of the permit should facilitate a project which is compatible with the surrounding neighborhood;
4. The approval of the permit should maintain the supply of existing housing stock in the City of San Jose;
5. Both inventoried and non-inventoried buildings, sites and districts of historical significance should be preserved to the maximum extent feasible;
6. Rehabilitation or reuse of the existing building would not be feasible; and
7. The demolition, removal or relocation of the building without an approved replacement building should not have an adverse impact on the surrounding neighborhood.

Part 6

Emergency Residential Shelter

20.80.500 Emergency Residential Shelter

- A. Temporary shelter in an emergency residential shelter may be provided for a period not to exceed sixty (60) days. A Conditional Use Permit may allow an exception to the maximum stay of sixty days for those persons enrolled in drug or alcohol recovery or treatment programs conducted on-site as an incidental use to the shelter program. Such extended stays may not exceed eighteen (18) months.
- B. Medical assistance, training, counseling, and personal services essential to enable homeless persons to make the transition to permanent shelter may be provided, with or without meals, as an incident to the operation of an emergency residential shelter.
- C. A Shelter Management Plan shall be a condition of any development permit approved and should address issues including good neighbor issues, transportation issues, client supervision, client services, and food services.

Part 7

Gasoline Service Station Combined Uses

20.80.550 Gasoline Service Station Combined Uses

No permit under this Title shall be issued which would allow both a gasoline service station and the retail sale of food, grocery items, or alcoholic beverages. This limitation does not apply to

the retail sale of prepackaged soft drinks, cigarettes, and snack foods from automatic vending machines.

Part 8

Gasoline Service Station Conversions

20.80.600 Special Use Permit Required

- A. No person, firm or corporation shall convert a gasoline service station to any other use without a Special Use Permit in the case of conversion to a permitted or special use in the District, or a Conditional Use Permit in the case of conversion to a conditional use in the District
- B. The following requirements shall be applied by the Director, or the Planning Commission on appeal, in granting a Special Use Permit under this Part:
 - 1. Tank Safeguarding or Removal. All flammable or combustible liquid storage tanks shall be safeguarded or removed in compliance with the provisions of Chapter 17.68 of Title 17 of the San Jose Municipal Code, and the area shall be resurfaced and landscaped in a manner appropriate to the proposed converted use.
 - 2. Equipment. Pumps, pump island, mechanical equipment, wells, offices, accessory structures, insignias, trademarks, billboards, signs, kiosks and the supporting structures, mounting, and foundations of the listed items, and any and all other improvements situate on the site, and formerly utilized for the gasoline service station use, shall be removed or found to be compatible with the proposed conversion.
 - 3. Soil Testing and Clean-up. The lot shall be tested for soil contamination. If such contamination is found, the soil shall be rendered free of such contamination through clean-up procedures which are in accordance with applicable federal, state and local regulations.
 - 4. Driveway Closure. Existing driveways shall be closed as determined by the Director to minimize ingress and egress to the site to reduce potential hazards to pedestrian and vehicular circulation.
 - 5. Landscaping. Landscaping shall be included in the site design to enhance the overall aesthetics of the converted site.

Part 9 Home Occupations

20.80.700 General

A home occupation meeting the criteria of this Part is allowed in a one-family dwelling, two-family dwelling, multiple dwelling or mobilehome as an incidental use of such dwelling.

20.80.710 Performance Criteria

A business or commercial activity is a home occupation only if it conforms to each of the performance criteria, set forth in Table 20-160 below:

Table 20-160 Performance Criteria	
Signage	Signage must conform to the residential signage requirements set forth in Part 4 of Chapter 23.04 of Title 23.
Business Vehicles	A maximum of one (1) business vehicle with a manufacturer's gross vehicle weight of less than 10,000 pounds is permitted to be kept, garaged or parked on the lot or parcel associated with the home occupation.
Clients	A maximum of two (2) clients at a time are permitted at the dwelling.
Employees and Assistants	Only occupants of the dwelling may be employees or unpaid volunteers of the business or commercial activity.
Environmental Constraints	There shall be no obnoxious odors, vibrations, glare, fumes, dust, electrical interference or noise detectable by normal human sensory perception outside the dwelling or through vertical or horizontal party walls.
Hours of Operation	Clients are permitted at the residence only between the hours of 9 o'clock a.m. and 9 o'clock p.m.
Location	
<i>Dwelling Unit</i>	Home occupations, including storage, are permitted in the dwelling unit.
<i>Accessory Building</i>	Home occupations, including storage, are limited to one hundred (100) square feet of floor area in an accessory building provided any required parking provided in the accessory building is retained and accessible.
<i>Attached Garage</i>	Home occupations are permitted in an attached garage provided the required parking is retained and accessible.
<i>Carports</i>	Home occupations are not permitted in carports.
<i>Yard Areas</i>	Home Occupations are not permitted in yard areas.
Manufacture or Assembly	No manufacture or assembly, other than hand-crafted products, is permitted.

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Table 20-160 Performance Criteria	
Sales	The direct sale of products off display shelves or racks to the general public is prohibited; however, an order may be filled on the premises if placed earlier by a customer using telephone or mail order communications, or through attendance at an off-site sales party.

20.80.720 Prohibited Uses

The following are not permitted as home occupations:

1. Animal breeding.
2. Appliance repair, other than the repair of small household appliances, as defined in Section 20.200.550.
3. Firearm sales and service.
4. Motorized garden tool repair, such as, but not limited to, lawnmowers, chainsaws, and leaf blowers.
5. Massage parlor, as provided in Part 1 of Chapter 20.80 of this Title, and the business of massage as provided in Section 6.44.010, Subsection A, of Chapter 6.44 of Title 6.
6. Pest control.
7. Upholstery and furniture repair.
8. Food catering.
9. Vehicle-related uses such as, but not limited to, the following: storage of vehicles, cleaning, dismantling, embellishment, installation, manufacture, repair or service, sale, lease or rental, towing, driving schools, and dispatching of vehicles located at the site.
10. Welding.
11. Any use which requires a Hazardous Materials Permit from the Fire Department.
12. Any Off-Sale of Alcohol.
13. Any other use which does not comply with each of the criteria provided in Table 20-160.

Part 10

Outdoor Vending Facilities

20.80.800 Purpose

This Part regulates vending facilities established on private properties, typically in parking lots or on private pedestrian walkways. Such uses may, when properly integrated with surrounding uses, become a valued component of the urban environment. The specific purposes of this Part are to safeguard the urban environment by permitting such uses in a manner consistent with safe and efficient circulation of pedestrian and vehicles and by protecting the integrity and character of the surrounding neighborhood, properties and uses.

20.80.810 Administrative Permit Required

- A. No person shall place or operate or allow or suffer the placement or operation of any stationary vending facility which serves members of the public outdoors on any privately owned parcel or lot except in compliance with an Administrative Permit issued pursuant this Title. The application for such Administrative Permit may be filed by the operator of the vending facility and shall be countersigned by the owner of the subject lot or parcel, or by the authorized agent of the owner, pursuant to the requirements of Chapter 20.100.
- B. A stationary vending facility is a facility which remains or operates on any single parcel or lot for more than a total of one-half (1/2) hour in any twenty-four (24) hour period.
- C. An Administrative Permit is required for each individual vending facility.

20.80.820 Exception - Administrative Permit

Nothing in this Part shall regulate or prohibit the following uses:

- 1. The seasonal sale of Halloween pumpkins and Christmas trees and greenery pursuant to this Title.
- 2. The vending of flowers from an approved location pursuant to Sections 6.30.020 through 6.30.060 of Title 6.
- 3. The peddling of any product from an approved location within the sidewalk portion of a public street pursuant to Chapter 6.54 of Title 6.
- 4. The placement or maintenance of a newsrack within the public right-of-way pursuant to Chapter 13.18 of Title 13.

5. The vending of beverages, goods, wares, merchandise or services for the use of an on-site business when covered by other provisions in this Title.

20.80.830 Restriction on Type of Vending

An outdoor vending facility shall be used only for purposes that are permitted in a fixed-base use in the District in which the vending facility is located.

20.80.840 Fixed-Base Host Required

Vending facilities shall not be permitted on vacant parcels or lots. Each vending facility shall be located on the same site as, and shall share support facilities, including parking, sanitary and trash disposal facilities, with a fixed-base host.

20.80.850 Minimum Standards for Vending Facilities

The following standards shall be applied by the Director, or by the Planning Commission on appeal, in granting an Administrative Permit for a vending facility. The Director or Planning Commission, may impose stricter standards as an exercise of discretion, upon a finding that stricter standards are reasonably necessary in order to implement the general intent of this Part and the purposes of this Title. The standards for vending facilities are set forth in Table 20-170:

Table 20-170 Minimum Standards	
Height	The maximum height of any portion of a vending facility, including any folding or collapsible appendage, shall not exceed ten (10) feet.
Width	The maximum width of a vending facility or cart, including any folding or collapsible appendage, shall not exceed ten (10) feet.
Length	The maximum length of a vending facility or cart, including any folding or collapsible appendage, shall not exceed twenty-four (24) feet.
Distance from Intersections	No vending facility shall be placed on or operate within the boundaries of a hypothetical triangular area described by the point of intersection of the curb-line extensions of perpendicular or nearly perpendicular streets, and a line joining two points thirty (30) feet from that point of intersection, measured along those curb-lines.
Distance from Streets	No vending facility shall be placed or operate at a location less than fifteen (15) feet from any street right-of-way.
Distance From Freeway Ingress and Egress Ramps	No vending facility shall be placed or operate less than one hundred (100) feet from a freeway on or off ramp.
Distance From Driveways	No vending facility shall be placed or operate less than twenty (20) feet from a driveway curb cut.
Distance From Other Vending Facilities	No vending facility shall be placed or operate within five hundred (500) feet of another vending facility operating on private property.
Distance From Residences	No vending facility shall be placed or operate within one-hundred fifty (150) feet of a residence.

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Table 20-170 Minimum Standards	
Paved Locations	No vending facility shall be placed or operate on a parcel or lot unless the surface is paved with asphalt, macadam or concrete.
Mobility of Operations	No vending facility shall be placed within or operate from a structure or stand which is attached to or bears directly upon or is supported by the surface of the site. Vending facilities shall operate exclusively from vehicles or carts or other conveyances which are fully mobile and have operational wheels in place at all times. Vending facilities shall not connect to temporary or permanent on-site water, gas, electricity, telephone or cable sources.
Sanitary Facilities	Persons operating vending facilities shall have unrestrained right of access to toilet and handwashing facilities located on site within reasonable distance of the vending facility's approved location.
Setback	Vending facilities shall be located not less than fifteen (15) feet from a parcel or lot line or a public right-of-way.
Parking	<ol style="list-style-type: none"> 1. Vending facilities shall not be located in or obstruct parking spaces required by this Title for the operation of any other concurrent use. 2. Vending facilities shall provide a minimum of three (3) parking spaces, located on the host site and within two hundred (200) feet of the vending facility's approved location.

20.80.860 Displays of Wares

Detached displays of food, beverage, goods, wares, and merchandise and displays of such articles visible off-site shall not be allowed.

20.80.870 Signage Standards

All signs used in conjunction with any vending facility shall comply with the requirements of Title 23 and with the following requirements:

1. Free-standing signs shall not be allowed. All signs shall be mounted or attached to the exterior surfaces of the vending facility and shall not extend beyond the top, bottom, or side lines of the exterior surface to which it is mounted or attached. The dimensions of mounted or attached signs shall be included in measuring and calculating the maximum height, width and length of a vending facility under Section 20.80.750.
2. No sign shall revolve, rotate, move or create the illusion of movement, rotation or revolution, or have any visible moving, revolving or rotating surface parts.
3. No sign shall be illuminated, directly or indirectly; but this restriction does not preclude the incidental illumination of such signs by service lighting needed in the conduct of nighttime operations.

4. No signs shall emit or broadcast any sound, outcry, or noise.

20.80.880 Findings

- A. The Administrative Permit shall be granted only if the Director makes the following findings:
 1. The vending facility, as designed and at the location requested, will not create a potentially adverse impact on pedestrian or vehicular safety or interfere with or in any way impede on-site traffic circulation; and
 2. The proposed vending facility, and at the location requested, will be compatible with the design of buildings or structures on site or in the vicinity. Compatibility is based on factors such as harmony with the architecture, color, style and design of structures on the host site and the surrounding neighborhood; and
 3. The location of a proposed vending facility is not in such close proximity to another such facility or facilities as to create or contribute to a blighted condition of the area which can result from compaction of such facilities; and
 4. The proposed vending facility will not impair the landscaping required for any concurrent use by this Title or any permit issued pursuant thereto; and
 5. The proposed vending facility will not obstruct any parking space required by this Title or any Permit issued pursuant thereto for any concurrent use.
- B. The Director, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.80.890 Conditions of Issuance

All outdoor vending facilities must comply with the following conditions:

1. Vending facilities coming within the definition of "mobile food preparation unit," "vehicle," or "temporary food facility" as set forth in the Health and Safety Code of the State of California, Division 22, Chapter 4, Article 2, Sections 27526, 27538, and 27540, or their successors, shall, as a condition of approval for issuance of a Special Use Permit under this Part evidence and display at all times a current health permit issued to the vendor for the vending facility by the Health Officer of the County of Santa Clara.
2. As a condition of approval of a Administrative Permit for a vending facility, the operator of such facility shall provide to the Director of Planning an agreement signed by the owner of the lot or parcel, or the owner or operator of the fixed base

use, if different from the owner of the lot or parcel, to provide the support facilities required by this Part.

3. A vendor shall attend the vending facility at all times.
4. The vendor shall maintain the area around the vending facility in a clean and orderly fashion.
5. The vending facility shall be maintained in a manner which does not create a public or private nuisance. For purposes of this Part, a nuisance shall mean any act or omission which obstructs or causes substantial inconvenience or damage to the public or any member thereof, in the course of, or by the manner of, the exercise of rights created by the grant of the Administrative Permit.
6. Vending facilities shall be kept in a good state of repair and shall be maintained with surfaces which are clean and not cracked, peeling, or faded.
7. Each vending facility shall display in a manner legible and visible to its clientele:
 - a. The name and phone number of the vendor operating the vending facility;
 - b. The Administrative Permit number and date of issuance issued to the vending facility; and
 - c. The number of the City business license issued to the vending facility.
8. The hours of operation of a vending facility shall be limited to the hours of operation of the fixed-base businesses on the fixed-base host site, however no vending facility shall operate during the hours from 10:00 p.m. through 6:00 a.m. During hours in which the fixed-base host site businesses are closed, the vending facility shall be removed from the parcel or lot on which it operates, or shall be stored indoors.

Part 11

Off-Sales of Alcoholic Beverages

20.80.900 Off-Sale of Alcohol Beverages

- A. A Conditional Use Permit may be issued for the off-sale of alcoholic beverages only upon making the following additional findings, where applicable:
 1. For such a use at a location closer than five hundred (500) feet from any other such use situate either within or outside the City that the proposed location of the off-sale alcohol use would not contribute to an excess concentration of establishments which sell alcoholic beverages, or

2. For such a use at a location closer than five hundred (500) feet from any child care center, elementary school, secondary school, college or university, or one hundred fifty (150) feet from any residentially zoned property that the building in which the proposed use is to be located is situate and oriented in such a manner that would not adversely affect such residential and/or school use.
- B. The off-sale of alcohol as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirement of a Conditional Use Permit.

Part 12

Pay Telephones on Private Property

20.80.1000 Permit Required

- A. No person shall place or operate or allow or suffer the placement or operation of any pay telephone which serves the members of the public on any privately owned parcel or lot that does not meet the criteria set forth in Table 20-180.
- B. A pay telephone which does not meet the criteria set forth in Table 20-180 may be approved with a Special Use Permit issue pursuant to this Title.

Table 20-180 Pay Telephone Criteria	
Location	<ol style="list-style-type: none"> 1. Pay telephones shall be located inside a building; or, attached to the wall of the building outside or free-standing within one foot of the outside wall, measured horizontally from the wall, at a distance no greater than twenty five (25) feet from the primary entrance to the building, and in no case on a wall other than that containing the primary entrance. 2. All outside pay telephones shall allow for a minimum five (5) foot pedestrian access between the pay telephone and the edge of the walk or the private property line, whichever is closer 3. No pay telephones shall be allowed on any unimproved parcel
Quantity	No more than two exterior pay telephones per building are allowed.
Lighting	Lighting is limited to the pay telephone fixture. No additional lighting shall be placed on the wall of the building except by approval of the Director.

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Table 20-180 Pay Telephone Criteria	
Signage	<ol style="list-style-type: none"> 1. Signage shall be limited to the pay telephone fixture and not exceed one square foot. No signage shall be constructed independent of such pay telephone fixture. 2. Signage is limited to identification of the pay telephone. No independent advertisement is allowed.

20.80.1010 Amortization

Any pay telephone for use by the general public existing on February 19, 2001, which does not conform to the provisions of this Part, shall be regarded as a nonconforming use. Any such pay telephone existing on September 21, 2001 that does not conform to the additional provisions of this Part that became effective on that date, regarding location of a public pay telephone on a wall containing a primary entrance and/or regarding a minimum five (5) foot pedestrian access between the public pay telephone and the private property line, shall be regarded as a nonconforming use. Such pay telephones shall abide by the provisions for amortization in Sections 20.150.300 of this Title.

Part 13

Recycling Facilities

20.80.1100 Permits Required

- A. No person shall place or permit the placement, construction, or operation of any recycling facility, including a reverse vending machine, small collection facility, transfer facility, processing facility, or composting facility, without first obtaining a permit pursuant to the provisions set forth in this Title.
- B. A PD zoning may expressly permit or prohibit recycling facilities. Where a PD zone does not specifically address such facilities but allows uses permitted in the CO, CP, CN, CG, LI, and/or HI Zoning Districts, a small collection facility may be permitted with an Administrative Permit in accordance with Chapter 20.100.

20.80.1110 Permits for Multiple Sites

A single Administrative Permit may be granted to allow more than one reverse vending machine or more than one small collection facility, even if located on different sites, but only if:

1. The operator of each of the proposed facilities is the same;

2. All of the applicable criteria and standards set forth in this Part are met for each such proposed facility; and
3. The proposed facilities are determined by the Director to be similar in nature, size, and intensity of activity.

20.80.1120 Approval of Administrative Permit

An applicant shall declare, under penalty of perjury, that a recycling use subject to an Administrative Permit is and at all times will be maintained to conform with each and every one of the applicable criteria and standards set forth in Section 20.80.1130 below. An Administrative Permit shall not be issued unless all of the applicable criteria are met.

20.80.1130 Criteria and Standards

- A. Those recycling facilities permitted with an Administrative Permit shall meet all of the applicable criteria and standards listed below. Those recycling facilities permitted with a Site Development Permit, Special Use Permit, or Conditional Use Permit shall meet the applicable criteria and standards listed below, provided that the Director, Planning Commission, or City Council, as the case may be, may relax such standards or impose stricter standards as an exercise of discretion, upon a finding that such modifications are reasonably necessary in order to implement the general intent of this Part and the purposes of this Title. The criteria and standards for recycling facilities are as follows:
 1. Shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes of the City of San Jose;
 2. Shall be located within fifteen (15) feet of the entrance of the host business and shall not obstruct pedestrian or vehicular circulation;
 3. Shall be constructed and maintained with durable waterproof and rustproof material and shall be covered;
 4. Shall be clearly marked to identify the type of material to be deposited;
 5. Sign area shall be a maximum of four (4) square feet, and sign(s) shall be attached to the machines;
 6. Shall be no more than three (3) machines per host business;
 7. Shall be no more than fifty (50) cubic feet in bulk and no more than eight (8) feet in height.
- B. Reverse Vending Machines

8. Reverse vending machines located indoors do not require any permits under this Title.

C. Small Collection Facilities

1. The facility shall be established in conjunction with a fixed base host business which is in compliance with the zoning, building and fire codes of the City of San Jose;
2. All containers shall be constructed and maintained with durable, waterproof and rustproof material and shall be covered;
3. All containers shall be clearly marked to identify the type of recyclable or recyclables which may be deposited;
4. The facility shall be clearly marked to identify the name and telephone number of the facility operator;
5. The site shall be swept and maintained in a dust-free, litter-free condition on a daily basis;
6. The facility shall be placed on a site so as not to obstruct on-site or off-site pedestrian or vehicular circulation;
7. The facility shall be set back at least ten (10) feet from any street line;
8. The facility shall not impair the landscaping required for any concurrent use by this Title or any permit issued pursuant thereto;
9. The noise level shall not at any time exceed 55 dBA as measured at the property line of residentially zoned or occupied property; otherwise shall not exceed 70 dBA;
10. The facility shall not include power-driven sorting and/or consolidation equipment, such as crushers or balers; bulk reverse vending machines may be permitted;
11. Signs may be provided as follows:
 - a. Unattended container not over 50 cubic feet in bulk and not over eight (8) feet in height may have a maximum sign area of four (4) square feet; and
 - b. Other containers or units may have one flat-mounted sign per side of container or wall of enclosure of twenty percent of the surface of the side or six (6) square feet, whichever is greater;
12. The minimum average illumination of the site shall be 1/2 foot-candle;

13. Use of the facility for collection of solid waste or hazardous waste, as defined in Sections 9.10.280 and 9.10.150 of Title 9, is prohibited;
14. The facility shall be removed from site on the day following permit expiration;
15. Attended facilities shall be in operation only during the hours of operation of the host business, and
16. The facility shall conform to all development regulations for the zoning district in which it is located; for an attended facility, a minimum of one (1) parking space per attendant shall be provided.
17. The facility shall be located such that any required parking for the host business is not displaced.

D. Transfer Facilities

1. Operations shall take place within a fully enclosed building or:
 - a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and
 - b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;
2. Setbacks from property lines shall be those provided for in the zoning district in which the facility is located, but if less than twenty-five (25) feet the facility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;
3. If the facility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between 7:00 P.M. and 7:00 A.M.;
4. Noise level shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA;
5. Sign criteria shall be those provided for the zoning district in which the facility is located.

E. Processing Facilities

1. Operations shall take place within a fully enclosed building or:

- a. Within an area enclosed by a solid wood or masonry fence at least six (6) feet in height; and
 - b. At least one hundred fifty (150) feet from property planned, zoned or occupied for residential use;
2. Setbacks from property lines shall be those provided for in the zoning district in which the facility is located, but if less than twenty-five (25) feet the facility shall be buffered by a landscape strip at least ten (10) feet wide along each property line;
3. If the facility is located within five hundred (500) feet of property planned, zoned or occupied for residential use, it shall not be in operation between 7:00 P.M. and 7:00 A.M.;
4. Noise level shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA;
5. Sign criteria shall be those provided for the zoning district in which the facility is located.

F. Composting Facilities

1. Setbacks of all outdoor uses including, but not limited to, compost heaps and structures, shall be those provided for in the zoning district in which the facility is located, but shall not be less than twenty-five (25) feet;
2. A landscape strip of at least fifteen (15) feet in width shall be provided along all property lines;
3. Noise level shall not exceed 55 dBA as measured at the property line of residentially zoned or occupied property, or otherwise shall not exceed 70 dBA;
4. Sign criteria shall be those provided for the zoning district in which the facility is located;
5. Sufficient water shall be available on site to put out any fire which may occur;
6. The stockpiling of composed material, and the composting and processing of such material, shall be accomplished in a manner which will protect the health and safety of all facility employees.
7. Facilities where mixed waste is composted shall be enclosed by a solid wood or masonry fence. Sufficient slope shall be provided to allow the drainage of all water; and

8. All composting facilities shall be maintained (i.e. free of pests) and shall not constitute a nuisance in terms of odor or dust.

20.80.1140 Adhering to Criteria

The criteria provided in Section 20.80.1130 above shall be deemed conditions of any Administrative Permit or Development Permit for any recycling facility. It shall be unlawful to violate said criteria.

20.80.1150 Site Clean-Up Required

The operator and host business of any recycling collection, transfer, or processing facility shall, on a daily basis, remove any and all recyclable materials or refuse which has accumulated or is deposited outside the container, bins, or enclosures intended as receptacles for such materials. Upon the failure to remove said materials, the City may deem them to be abandoned and may enter the site to remove the materials.

Part 14

Seasonal Sales

20.80.1200 Seasonal Sales

Notwithstanding anything in this Title to the contrary, seasonal sales, including the sale of Halloween pumpkins and Christmas trees may be held on lots in the CO, CP, CN, CG, IP, LI, and HI Zoning Districts, as well as on lots zoned Planned Development where the permitted uses align with the permitted uses in the aforementioned lots. Such seasonal sales may also be held on property in any zoning district if such property is designated Public/Quasi-Public on the Land Use/Transportation Diagram of the General Plan and the property is currently being used for uses consistent with that designation.

20.80.1210 Regulation of Use

The following regulations shall apply to all seasonal outdoor Halloween pumpkin and Christmas Tree sales lots:

1. Seasonal outdoor Halloween pumpkin sales are allowed between October 1 and November 5, inclusive;
2. Seasonal outdoor Christmas tree sales are allowed between November 6 and December 30, inclusive;
3. Temporary Structures and buildings 120 square feet or less in floor area are allowed if they are located at least 20 feet from any property line;
4. Activity associated with seasonal outdoor Halloween pumpkin and Christmas tree sales may not be conducted on any portion of a lot which is closer than one hundred (100) feet to any residentially used lot.
5. Seasonal outdoor Halloween pumpkin and Christmas tree sales must occur in an area designated for such sale as set forth in any development permit issued for the site.

Part 15

Single Room Occupancy Facilities

20.80.1300 Single Room Occupancy (SRO) Facilities Criteria for Approval

- A. No Conditional Use Permit may be issued for an SRO Living Unit Facility or SRO Residential Hotel unless the following criteria are met:
- B. SRO Living Unit Facility
 - 1. Excluding the closet and the bathroom area, an SRO Living Unit must be a minimum of one hundred fifty (150) square feet in floor area. The average unit size in a Living Unit Facility shall be no greater than two hundred seventy-five (275) square feet and no individual living unit may exceed four hundred (400) square feet.
 - 2. Each SRO Living Unit shall be designed to accommodate a maximum of two (2) persons.
 - 3. An SRO Living Unit is not required to but may contain partial or complete kitchen and bath facilities. If individual bath facilities are not provided, common bath facilities must be provided in accordance with Subsection B of Section 17.20.290 of Title 17 of the San Jose Municipal Code. If individual kitchen facilities are not provided, common kitchen facilities must be provided that adequately serve the residents of the SRO Living Unit Facility. Additional requirements may be imposed by the Planning Commission.
 - 4. Individual SRO Living Units may not have separate external entryways.
 - 5. The SRO Living Unit Facility must have a management plan approved by the Department of Housing.
 - 6. Laundry facilities must be provided in a separate room at the ratio of one (1) washer and one (1) dryer for every twenty (20) units or fractional number thereof.
 - 7. A cleaning supply storeroom and/or utility closet with at least one (1) laundry tub with hot and cold running water must be provided on each floor of the Living Unit building.
 - 8. The SRO Living Unit Facility shall provide interior common space based on the unit size as follows:

For a Living Unit size:

Common area to be provided:

Less than 160 sq. ft.	4.5 sq. ft. of common space
160-169 sq. ft.	4.0 sq. ft.
170-179 sq. ft.	3.5 sq. ft.
180 + sq. ft.	3.0 sq. ft.

An SRO Living Unit Facility must provide at least two hundred (200) square feet in area of interior common space, excluding janitorial storage, laundry facilities and common hallways.

C. SRO Residential Hotel:

1. Excluding the closet and bathroom space, an SRO Residential Hotel unit must be at least seventy (70) square feet in floor area, and may have a maximum of two hundred nineteen (219) square feet in floor area.
2. An SRO Residential Hotel room between seventy (70) and one hundred nineteen (119) square feet in floor area shall be designed to accommodate a maximum of one (1) person, and an SRO Residential Hotel room between one hundred twenty (120) and two hundred nineteen (219) square feet in floor area shall be designed to accommodate a maximum of two (2) persons.
3. An SRO Residential Hotel unit may contain partial kitchen and bath facilities. If individual bath facilities are not provided, common bath facilities must be provided in accordance with Subsection B of Section 17.20.290 of Title 17 of the San Jose Municipal Code.
4. Individual SRO Residential Hotel units may not have separate external entryways.
5. The SRO Residential Hotel must have a management plan approved by the Department of Housing.
6. A closet and designated storage space is required in every SRO Residential Hotel room.
7. A cleaning supply storeroom and/or utility closet with at least one (1) laundry tub with hot and cold running water must be provided on each floor of the Residential Hotel room.
8. The SRO Residential Hotel shall provide a minimum two hundred (200) square feet of interior common area.

D. Kitchen and Bathroom Facilities:

1. For purposes of this section, a partial bathroom contains a water closet and sink which may be utilized for both hygiene and cooking purposes.
2. A full kitchen contains all of the following: a sink, a refrigerator and a stove, range top or oven. A partial kitchen is missing at least one of these facilities.
3. The Planning Commission or the City Council shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate that the project will comply with these criteria.

Part 16

Temporary Outdoor Uses Of Private Property

20.80.1400 Outdoor Private Property Special Event

An Outdoor Private Property Special Event is a temporary outdoor use of private property that meets the criteria in either subsection 1. or 2. below.

1. The Outdoor Private Property Special Event will displace required parking for the existing use or uses on the site. Required parking for purpose of this Part includes parking required under Chapter 20.90, except in the case of a City approved street closure which prevents access to such required parking.
2. The Outdoor Private Property Special Event requires a permit under the jurisdiction of any of the following agencies:
 - a. San Jose Police Department;
 - b. San Jose Fire Department;
 - c. California Department of Alcohol Beverage Control; or
 - d. California Department of Motor Vehicles.

20.80.1410 Director

Unless otherwise stated, the term “Director” as used in this Part shall mean the Director of Conventions, Arts and Entertainment or the head or director of the department designated by the City Manager to administer the provisions of this Part.

20.80.1420 Permit Required

- A. No person shall operate or allow or suffer the operation of an Outdoor Private Property Special Event except in compliance with an Event Permit issued pursuant to this Part, or a Special Use Permit, or a Conditional Use Permit issued pursuant to Chapter 20.100 pursuant to the provisions of this part.
- B. Subject to the provisions of Subsection 20.80.1420.D below, an applicant for an Outdoor Private Property Special Event that will not exceed thirty (30) days but does not meet the requirements for an Event Permit may apply for and shall be required to first obtain a Special Use Permit issued pursuant to the provisions of Chapter 20.100.
- C. Subject to the provisions of Subsection 20.80.1420.D below, an applicant for an Outdoor Private Property Special Event that will exceed thirty (30) days but does not meet the requirements for an Event Permit may apply for and shall be required to first obtain a Conditional Use Permit issued pursuant to the provisions of Chapter 20.100.
- D. Notwithstanding the provisions of Subsections 20.80.1420.B and C above, an applicant for an Outdoor Private Property Special Event of any length within the Downtown Core Area may apply for and shall be required to first obtain an Event Permit issued pursuant to the provisions of this Part when the outdoor event also is authorized to use outdoor public property as an integral component of the outdoor event and any one (1) of the following permits for the outdoor event have been issued by the City:
 - 1. A Paseo/Plaza Use Permit pursuant to the provisions of Chapter 13.22 of Title 13 of this Code; or
 - 2. A Park Use Permit pursuant to the provisions of Chapter 13.44 of Title 13 of this Code; or
 - 3. A Street Closure Permit pursuant to the provisions of Chapter 13.16 of Title 13 of this Code; or
 - 4. A Parade Permit pursuant to the provisions of Chapter 13.12 of Title 13 of this Code.

20.80.1440 Residential Zoning Districts

Outdoor Private Property Special Events in Residential Zoning Districts shall be permitted only at schools and Church/Religious Assembly.

20.80.1450 Event Permits for Outdoor Private Property Special Events in Residential Zoning Districts

An Event Permit for Outdoor Private Property Special Events in Residential Zoning Districts may be issued only if the following requirements are met:

1. The Outdoor Private Property Special Event shall occur only on Fridays and/or Saturdays between the hours of 9:00 a.m. and 10:00 p.m. and/or Sundays between the hours of 9:00 a.m. and 9:00 p.m.
2. No more than two (2) Outdoor Private Property Special Events may be held at the same location within any six (6) month period.
3. The Outdoor Private Property Special Event may not exceed three (3) consecutive days and shall not occur on more than two (2) consecutive weekends.

20.80.1460 Event Permits for Outdoor Private Property Special Events in Commercial Zoning Districts

An Event Permit for Outdoor Private Property Special Events in a Commercial Zoning District may be issued only if the following requirements are met:

1. Except in the Downtown Core Area, the Outdoor Private Property Special Event shall be located at least one hundred and fifty (150) feet from any residential use.
2. No more than three (3) Outdoor Private Property Special Events shall occur at the same location within a four (4) month period.
3. An Outdoor Private Property Special Event shall not exceed three (3) consecutive days and shall not occur on more than two (2) consecutive weekends.
4. The hours of the Outdoor Private Property Special Event shall be consistent with the business hours of the location at which the event is to be held except the Outdoor Private Property Special Event shall conclude no later than midnight.

20.80.1470 Event Permits for Outdoor Private Property Special Events in Industrial or Manufacturing Zoning Districts

An Event Permit for Outdoor Private Property Special Events in an Industrial or Manufacturing Zoning District may be issued only if all of the following requirements are met:

1. The Outdoor Private Property Special Event shall be located at least one hundred and fifty (150) feet from any residential use.

2. No more than two (2) Outdoor Private Property Special Events shall occur at the same location within any four (4) month period.
3. The maximum duration of each Outdoor Private Property Special Event shall not exceed three (3) consecutive days.
4. The Outdoor Private Property Special Event shall conclude no later than 1:00 a.m. regardless of the conclusion of any related activities occurring in an indoor venue.

20.80.1480 Event Permit Parking Limitations

- A. Regardless of zoning district, an Event Permit will not be issued if the Outdoor Private Property Special Event will displace more than thirty (30) percent of the required parking for the existing use or uses on the site, or a maximum of one-hundred fifty (150) spaces, whichever is less.
- B. This Section does not apply to Outdoor Private Property Special Events conducted in the Downtown Core Area, and events at schools and Church/Religious Assembly.

20.80.1490 Regulations

The Director is authorized to issue written regulations consistent with the provisions of this Part.

20.80.1500 Event Permit Application

- A. The application for an Event Permit may be filed by the event organizer and shall be countersigned by the owner of the lot(s) or parcel(s), designated as the Outdoor Private Property Special Event venue or by the owner's authorized agent.
- B. The Event Permit application shall be on a form provided by the Director.
- C. The Event Permit application shall be submitted with the Event Permit Fee as set forth in the Schedule of Fees established by Council resolution.

20.80.1510 Event Permit Application Procedure

- A. The Director shall issue Event Permits to applicants who comply with the permit application procedure and requirements set forth in this Part and who agree to comply with the Regulations and Event Permit Conditions.
- B. The Director is authorized to attach reasonable time, place and manner conditions, consistent with this Part and Regulations, to the issuance of any Event Permit.
- C. The Director shall issue the Permit or deny the application within thirty (30) days of receipt of the Event Permit application.

- D. The Director's decision to deny an Event Permit Application shall be in writing and shall be mailed to the Outdoor Private Property Special Event applicant at the address on the application.
- E. If the Director denies the Event Permit Application, the Outdoor Private Property Special Event applicant may alternatively seek either a Special Use Permit or Conditional Use Permit, as may be applicable.

20.80.1520 Conditions for Issuance of Permits for Outdoor Private Property Special Events

- A. No Event Permit for a Outdoor Private Property Special Event shall be issued unless the following conditions have been met and the applicant agrees in writing to comply with these conditions:
 - 1. All amusement rides, booths, tents and equipment shall be located at least twenty (20) feet from all frontage streets.
 - 2. The Outdoor Private Property Special Event venue shall have direct vehicular access from a public street.
 - 3. The size, configuration and location of the Outdoor Private Property Special Event venue shall be suitable for the proposed number of attendees taking into account other events which are scheduled to occur during the same time period at locations in proximity to the proposed site for the Outdoor Private Property Special Event.
 - 4. The Outdoor Private Property Special Event applicant has made provision for each of the following:
 - a. refuse disposal and sufficient trash receptacles within the event site;
 - b. litter removal within a three hundred foot radius of the boundaries of the event site;
 - c. scheduled maintenance of the Outdoor Private Property Special Event venue during the course of the event, including removal of animal waste, if applicable;
 - d. sanitary facilities, including adequate restrooms and/or portable toilets.
 - 5. The San Jose Police Department has approved the applicant's security and traffic plans, if applicable. The thresholds for requiring either a security or traffic plan or both shall be set forth in the Regulations issued pursuant to this Part.

6. The applicant shall be responsible for reimbursing the City for the direct cost of police services in the event that the Outdoor Private Property Special Event requires extra police services in addition to the regular patrol services provided in the police district in which the Outdoor Private Property Special Event site is located. The criteria for assessing whether the Outdoor Private Property Special Event will necessitate additional police services shall be set out in the Regulations issued pursuant to this Part.
 7. The applicant shall be responsible for reimbursing the City for the direct cost of litter removal within a three hundred foot radius of the boundaries of the event site in the event that the applicant fails to comply with this requirement.
 8. The San Jose Fire Department has approved applicant's plans for fire control devices, tents and canopies, cooking equipment, pyrotechnics and emergency vehicle access, if applicable.
 9. The California Department of Alcohol Beverage Control has issued a permit for the sale of alcohol or the applicant has certified that the sale of alcohol will not occur.
 10. The applicant will provide written notification of the Outdoor Private Property Special Event, including time, date and description of activities to property owners within three hundred (300) feet of the Outdoor Private Property Special Event site at least fourteen (14) days in advance of the first day of the event. An Event Permit Holder who is issued a permit fewer than fourteen (14) days in advance of the first day of the event shall provide the required notice within twenty-four (24) hours following the issuance of the permit but no later than two (2) business days in advance of the first day of the event.
- B. The issuance of either a Conditional Use Permit or a Special Use Permit for an Outdoor Private Property Special Event shall be subject to the conditions set forth in Subsection A. 1. through A. 9. of this Section.

20.80.1530 Conduct of Outdoor Private Property Special Event

- A. Any Outdoor Private Property Special Event permitted by this Part shall be conducted in full compliance with all local and state laws.
- B. The Outdoor Private Property Special Event shall not be conducted in such a manner as to cause a nuisance as defined by Section 20.200.810 of this Code.

20.80.1540 Responsibility for Compliance

Both the Event Permit holder and the property owner are responsible to pursue full compliance with the Event Permit and with any and all conditions imposed on the Event Permit.

20.80.1550 Revocation

The Director may revoke a Event Permit for any of the following grounds:

1. Fraud, misrepresentation or false statement contained in the application for the Event Permit or in the carrying out of the Outdoor Private Property Special Event in a way not consistent with the application;
2. Failure to comply with the provisions of this Chapter or the Regulations; or
3. Failure to comply with the conditions set forth in the Event Permit;

20.80.1560 Notice of Decision

- A. The Director shall notify an Event Permit holder, in writing, of the Director's decision to revoke a Event Permit, if the revocation is prior to the date of the proposed activity.
- B. The Notice of Decision shall state the grounds for revocation of the Event Permit and shall notify the Event Permit holder of the hearing opportunity pursuant to Section 20.80.1570.
- C. If the Notice of Decision to revoke or deny a Event Permit is issued less than twenty (20) business days, but more than three (3) business days prior to the proposed event, the request for hearing must be received by the Director no later than the end of the second business day after delivery of the Notice of Decision to the Event Permit holder.
- D. If the Notice of Decision to revoke a Event Permit is issued three (3) or fewer business days prior to the proposed activity, the Notice of Decision shall also notify the Event Permit holder of the time, date and location of the hearing.
- E. If the Notice of Decision to revoke an Event Permit is issued more than twenty (20) business days prior to the proposed activity, a written request for hearing must be received by the Director no later than five (5) business days after the date of the Notice of Decision.
- F. The Notice of Decision shall become final, unless a written request for hearing is received within the time limits set forth in this Section.

20.80.1570 Event Permit Revocation Hearing

- A. Upon receipt of a timely written request for a hearing on a Notice of Decision to revoke an Event Permit, the Director shall schedule a hearing. The Director promptly shall notify the Event Permit holder of the hearing date, time and location.
- B. The hearing with the Director shall be held within the following time frames:
 - 1. Five (5) business days after receipt of the request for hearing, if the proposed activity is to occur more than twenty (20) business days after timely receipt of the request for hearing; or
 - 2. No more than two (2) business days after receipt of the request for hearing, if the proposed event is to occur less than twenty (20) business days but more than three (3) business days after timely receipt of the request for hearing;
 - 3. If the proposed event is to occur three (3) or fewer business days after the Director's issuance of the Notice of Decision, the Notice of Decision shall also state the time, date and location of the hearing. When reasonably possible, the hearing shall occur at least twenty-four (24) hours prior to the proposed event. The Director, when reasonably possible, shall also provide the Event Permit holder at least twenty-four (24) hours advance notice of the hearing.
- C. At the hearing, the Event Permit holder may present any relevant evidence. The hearing will be conducted informally and the technical rules of evidence shall not apply. The Event Permit holder may be represented by any person.
- D. If the proposed event is to occur three (3) or fewer business days from the date of the hearing, the Director shall give a decision sustaining, reversing or modifying the decision to revoke the Event Permit upon concluding the hearing. The decision may be given orally. A written Notice of Final Decision shall be hand delivered or sent by mail to the Event Permit Holder no later than twenty-four (24) hours following conclusion of the hearing.
- E. If the proposed event is to occur three (3) or more business days from the date of the hearing, the Director shall give a decision sustaining, reversing or modifying the decision to revoke the Event Permit no later than three (3) business days following the hearing date or twenty-four (24) hours in advance of the proposed event. The written Notice of Final Decision shall be hand delivered or sent by mail to the Event Permit Holder.
- F. The decision of the Director shall be final.

20.80.1580 Immediate Revocation - Conditions

- A. Any Event Permit may be revoked on the day of the permitted event without prior written notice and without a hearing, if either the City Council, the City Manager, the Director, the Fire Chief or the Chief of Police determines that;
 - 1. revocation is in the interest of the immediate public health or safety because of fire, casualty, act of God or a public emergency; or
 - 2. the permittee is in violation of the provisions of the Part, the Regulations, or the terms of the Event Permit.
- B. The Event Permittee immediately upon receipt of the notification the Event Permit has been revoked shall cease the conduct of the event and shall commence with restoring the permit site to its condition prior to the commencement of the event.

Part 17

Temporary Shelter In Church

20.80.1600 Permit Required

- A. A Church/Religious Assembly which is a legal use may provide temporary shelter to homeless persons:
 - 1. If specifically allowed by a Conditional Use Permit or Planned Development Permit issued for the Church/Religious Assembly; or
 - 2. With an amendment to an existing Conditional Use Permit or Planned Development Permit for the Church/Religious Assembly; or
 - 3. With a Special Use Permit if no Conditional Use Permit or Planned Development Permit is required for the Church/Religious Assembly.
- B. A management plan shall be submitted as part of any permit application for temporary shelter in Church/Religious Assembly facilities.

20.80.1610 Findings

- A. The Director or Planning Commission may issue a Special Use Permit only after finding that:
 - 1. The temporary shelter use at the location requested will not adversely affect the health, safety, or welfare of persons residing or working in the surrounding area.

2. The proposed site is adequate in size and shape to accommodate the temporary shelter use.
- B. The application shall be denied where the information which is either submitted by the applicant or presented at the public hearing fails to satisfactorily substantiate such findings.

20.80.1620 Conduct of Use

The use of a Church/Religious Assembly for temporary shelter shall be subject to each of the following limitations:

1. Church/Religious Assembly facilities may be used as temporary shelter once for a maximum of thirty-five (35) days in any calendar year.
2. Church/Religious Assembly facilities may provide temporary overnight shelter to no more than fifteen (15) persons in one twenty-four (24) hour period.
3. At no time shall the number of persons sheltered in any Church/Religious Assembly facility exceed the maximum square footage and occupancy standards set forth in Title 17 of this Code.
4. No Church/Religious Assembly building or structure shall be erected, enlarged or modified for temporary shelter without an approved Development Permit as required by Chapter 20.100 of this Title.
5. All persons receiving temporary shelter shall sleep and eat within Church/Religious Assembly buildings. No person shall eat or be housed in tents, lean-tos or other temporary facilities.
6. The proposed temporary shelter shall be operated in a manner which is fully in conformance with all state and local laws including regulations and permit requirements which are not otherwise in conflict with the provisions of this Part.

Part 18 Temporary Trailers

20.80.1700 Use of Temporary Trailer

This Part authorizes and regulates the use of Temporary Trailers. The purpose of this Part is to allow Temporary Trailers to be used only for the following purposes:

1. The continuation of a Commercial, Industrial or Manufacturing business while a primary structure is undergoing alteration or restoration; and

2. The temporary erection of antennas mounted on Trailers for short term testing of coverage for wireless communication systems.

20.80.1710 Definitions

The following definitions are for purposes of this Part:

1. "Primary structure" means an existing building in which a principal permitted commercial, industrial or manufacturing use has been conducted and as to which an Applicant for a Permit under this Part has demonstrated a need for retrofit, restoration or other such work.
2. "Temporary Use Trailer" means a trailer, modular unit or other moveable prefabricated structure which is 2, 000 (two thousand) square feet or less in floor area.
3. "Temporary Antenna Trailer" means a temporary, portable antenna, along with attendant cabinets and other equipment, mounted on a Trailer that is licensed by the California Department of Motor Vehicles and is capable of towing by a single axle pickup truck.

20.80.1720 Zoning Districts and Permit Required

No Temporary Use Trailer or Temporary Antenna Trailer shall be used on any property unless:

1. The property is located in a Commercial Zoning District, in an Industrial Zoning District or those Planned Development Zoning Districts which Permit uses in the Commercial or Industrial Districts; and
2. The property owner has obtained a valid Permit issued in conformance with this Part.

20.80.1730 Temporary Use Trailer - Permit Required

- A. A Temporary Use Trailer for use as a replacement structure during retrofit, restoration or other such work on a primary structure requires one of the following Permits:
 1. An Administrative Permit, as provided in Chapter 20.100 of this Title, and in conformance with the requirements of this Section and Section 20.80.1740; or
 2. In the event the owner cannot meet the requirements of this Part or the Director denies an Administrative Permit, a Special Use Permit, as provided in Chapter 20.100.

- B. All Applications for a Permit for a Temporary Use Trailer shall set forth facts demonstrating to the satisfaction of the Director the need to use a Temporary Use Trailer to continue to conduct a commercial, industrial, or manufacturing use, which was in compliance with this Title, at a primary structure located on the same lot for which the Permit is being requested and in order to accomplish one (1) or more of the following:
1. Retrofit for seismic safety;
 2. Restoration of the primary structure necessitated by the total or partial destruction or damage of the structure by catastrophic event or sudden cause; or
 3. Other such work determined by the Director to be in the interest of public health and safety.
- C. All Applications shall demonstrate that the proposed Temporary Use Trailer shall be maintained in conformance with the provisions of Section 20.80.1740.
- D. Upon a determination that the Application meets the requirements of this Part, the Director may issue the Administrative Permit.

20.80.1740 Temporary Use Trailer - Conditions of Issuance

The use of any Temporary Use Trailer shall be in accordance with all of the following conditions:

1. The use of the Temporary Use Trailer may be permitted for up to one (1) year, and renewed for one (1) additional year at the discretion of the Director.
2. No more than one (1) Temporary Use Trailer per lot shall be permitted at any given time.
3. The Temporary Use Trailer shall be located a minimum of fifteen (15) feet from the front property line.
4. No Temporary Use Trailer shall be used in such a manner that circulation aisles are blocked.
5. The minimum number of required off-street parking spaces for the site shall be calculated according to the provisions of Chapter 20.90 based upon the cumulative square footage of the Temporary Use Trailer and any remaining useable space in the primary structure.
6. Not more than one sign shall be permitted per lot. Such sign shall be attached to the trailer and shall not exceed six (6) square feet in area.

7. The hours of operation shall be the same as for the preexisting use in the primary structure.
8. Nothing herein excuses full compliance with the provisions of Section 20.150.020 of this Title.
9. The Temporary Use Trailer shall comply with all applicable building and fire safety standards.
10. All necessary City permits, in addition to those required by this Part, shall be obtained prior to installation of the Temporary Use Trailer.
11. The Temporary Use Trailer shall be removed and the construction site shall be cleared of all debris upon completion of the retrofit, reconstruction or other work on the primary structure or upon revocation or expiration of the Administrative or Special Use Permit, whichever occurs first.
12. No certificate of occupancy, as provided for in Section 307 of the Building Code, shall be issued for the primary structure until after the Temporary Use Trailer has been completely removed from the lot and all utilities have been disconnected from the Trailer in a safe manner.
13. Revocation of any Permit issued hereunder shall be in accordance with the provisions of this Title which are applicable to the type of Permit issued.

20.80.1750 Temporary Antenna Trailer - Permit Required

- A. A Temporary Antenna Trailer for the testing of a wireless communication network requires the following Permit:
 1. An Administrative Permit, as provided in Chapter 20.100 of this Title, and in conformance with the requirements of this Section and Section 20.80.1760; or
 2. In the event the owner cannot meet the requirements of this Part or the Director denies an Administrative Permit, a Conditional Use Permit, as provided in Chapter 20.100.
- B. All Applications for Permit for a Temporary Antenna Trailer shall set forth facts demonstrating to the satisfaction of the Director that the Temporary Antenna Trailer will be used to determine if the site is necessary for a Wireless Communications Network.
- C. All Applications shall demonstrate that the proposed Temporary Antenna Trailer shall be maintained in conformance with the provisions of Section 20.80.1760.

20.80.1760 Temporary Antenna Trailer - Conditions of Issuance

The use of a Temporary Antenna Trailer shall be in accordance with all of the following conditions:

1. The Temporary Antenna Trailer will not exceed forty five (45) feet in height, or the maximum height of the zoning district, whichever is less; and
2. The Temporary Antenna Trailer will operate for no more than six (6) months at the site and no Temporary Antenna Trailer has operated within two thousand (2,000) feet of the proposed site in the previous two (2) years; and
3. The issuance of the Permit is intended only for the temporary testing of operation or design of the wireless communications network and the approval of such a Temporary Antenna Trailer shall not serve as a justification or basis for future approvals of wireless communication antennas on the site.
4. No more than one (1) Temporary Antenna Trailer per site may be permitted at any given time; and
5. The Temporary Antenna Trailer shall be located a minimum of fifty (50) feet from the property line; and
6. No Temporary Antenna Trailer shall block any circulation aisles; and
7. The Temporary Antenna Trailer shall comply with all applicable Building and Fire Safety standards; and
8. All necessary Permits shall be obtained prior to installation of the Temporary Antenna Trailer; and
9. Revocation of any Permit issued hereunder shall be in accordance with the provisions of this Title which are applicable to the type of Permit issued.

Part 19 Utility Structures

20.80.1800 Permit Required

- A. No Provider may construct a Utility Structure except within a private, public utility or public service easement and pursuant to an Administrative Permit issued pursuant to Chapter 20.100 of this Title, a Conditional Use Permit pursuant to Chapter 20.100 of this Title or a Development Permit pursuant to subsection B.

- B. If a property owner requires installation of a Utility Structure as the result of property development requiring a Development Permit pursuant to Chapter 20.100 the location and placement of any Utility Structure shall be addressed as part of the development permit and is not subject to requirements of this Part.
- C. The replacement of any existing Utility Structure is not subject to the requirements of this Part if:
 - 1. The cubic volume of the replacement Utility Structure is no more than twenty (20) percent greater than the existing Utility Structure; and
 - 2. The replacement Utility Structure does not contain any power generating equipment.

20.80.1810 Minimum Development Criteria - All Utility Structures

- A. All Utility Structures shall conform to all of the applicable minimum criteria:
 - 1. Utility Structures shall be located in a private, public utility, or public service easement.
 - 2. Sight lines shall remain unobstructed at intersections or driveways consistent with the Caltrans Traffic Safety Manual on file with the Director of Public Works.
 - 3. Utility Structures shall be enclosed or screened, to the extent possible, to match existing fencing, screening, or landscaping.
 - 4. Utility Structures shall be constructed and treated with appropriate materials which discourage or repel graffiti.
 - 5. Utility Structures shall be sited to avoid impacts on ordinance sized trees.
 - 6. No Utility Structure shall exceed 110 cubic feet or a maximum height of 5.5 feet above grade, exclusive of meter panels or pedestals.

20.80.1820 Minimum Development Criteria - Utility Structures located on Property Used or Zoned for Single-family Use

- A. Utility Structures located on property zoned or used for R-1 single-family residential uses shall conform to the following additional criteria:
 - 1. Utility Structures shall maintain a minimum sixty (60) feet setback from the front property line; and
 - 2. Utility Structures shall not be located in the front setback; and

3. Utility Structures may be located in side setback areas or along back fence if the backyard is along a major street;
4. Utility Structures shall maintain a minimum five (5) foot setback from the side property line or be located as closely as possible to an existing fence, whichever is less; and
5. Utility Structures shall not be located within six (6) feet of a residential structure as measured from the wall of the residential structure.
6. Utility Structures must serve the immediate residential area in which it is located; and
7. A three hundred (300') foot separation shall be maintained between all Utility Structures located on land zoned R-1 or used for single-family residential purposes.

20.80.1830 Minimum Development Criteria - Utility Structures That Contain Power Generating Equipment

Utility Structures that contain power generating equipment shall meet all of the following applicable minimum criteria:

1. Utility Structures shall contain an automatic excess flow gas shutoff valve or other comparable equipment.
2. Maximum noise levels emanating from the Utility Structure shall be subject to the General Plan noise policies.
3. The Cabinet exhaust system and port shall:
 - a. The exposed exhaust stream temperature shall not exceed one hundred fifty eight (158) degrees Fahrenheit and
 - b. The exhaust port shall be affixed with a warning label to indicate the danger of exposure to the exhaust temperature.
 - c. Backup batteries shall be programmed to vary their duration of operation with the length of power outage up to a maximum of thirty (30) minutes. As technology allows and without increasing the size of the cabinets, cabinets should be retrofitted with higher capacity batteries capable of providing full service operation for a maximum of two hours a full (6.1fW) load.

20.80.1840 Conditions - Utility Structures

The Director shall include the following conditions in all Permits for Utility Structures:

1. The Provider shall agree to be responsible for any damage caused by its activities to any existing public or private structure or facilities.
2. The Provider shall indemnify and hold harmless the City and any officers and employees thereof against and from all claims, loss, liability, damages, judgments, decrees, costs and expenditures which the City or such officer or employee may suffer, or which may be recovered from or obtainable against the City or such officer or employee, proximately caused by and growing out of or resulting from the exercise of the Permit.
3. The Provider shall maintain all Utility Structures in a safe and clean manner.
4. The Provider shall promptly remove all graffiti on any structure. In the event the Provider fails to remove all graffiti from the structure within two business days following receipt of notification from the City, the City shall have the right to remove any graffiti and the Provider shall reimburse the City for all costs incurred for the removal within thirty (30) days of receipt of a bill for the work done.
5. Testing of emergency power equipment shall be limited to weekdays between the hours of 9:00 a.m. to 5:00 p.m., unless alternate hours are requested at the time the application is filed and agreed to, in writing, by all abutting property owners.
6. Any other condition deemed appropriate by the Director.

Part 20 Wireless Communication Antenna

20.80.1900 Maximum Height Exception - Wireless and Building Mounted Wireless Communication Antenna

The maximum height of a wireless communication antenna may be increased over the required maximum height of the zoning district in which it is located up to a maximum of sixty (60) feet provided that the antenna is a Wireless Communications Antenna slimline monopole.

20.80.1910 Maximum Height Exception – Building Mounted Wireless Communication Antenna

The maximum height of a building mounted wireless communication antenna may be increased over the required maximum height of the zoning district in which it is located provided that all of the following criteria are met:

- A. The antenna and/or related building alterations project no more than ten (10) feet above the building surface on which it is located; or the antenna and/or related building alterations project no more than ten (10) feet plus and additional foot of height for every ten (10) feet the antenna is set back from the building parapet to a maximum height of fifteen (15) feet; and
- B. The antenna is architecturally integrated into the building and all ancillary equipment is adequately screened; or
- C. The antenna does not add to the visual clutter of the building or structure.

Part 21 Stand-By/Backup Electrical Power Generation

20.80.2000 Intent

The intent of this Part is to enable the expeditious permitting of energy generation facilities on properties without creating adverse conditions or impacts on neighboring properties.

20.80.2010 Permit Required

No person shall place, construct or operate, or permit the placement, construction, or operation of, any electrical power generation equipment or facility for the purpose of providing stand-by or backup power, either permanent or temporary, without first obtaining a permit pursuant to the provisions set forth in this Title.

20.80.2020 Administrative Permit for Temporary Equipment

- A. An applicant for an Administrative Permit to allow the placement, construction or operation of a Temporary Stand-By or Backup Electrical Power Generation Facility shall, in addition to all other Administrative Permit requirements, declare under penalty of perjury that the Temporary Stand-By or Backup Electrical Power Generation Facility sought for use subject to an Administrative Permit will at all times be maintained in full conformance with each and every one of the criteria and standards set forth in this Part.
- B. An Administrative Permit to allow a Temporary Stand-By or Backup Electrical Power Generation Facility shall not be issued unless the Director determines that all of the applicable criteria and standards set forth in this Part are met.

20.80.2030 Criteria and Standards

- A. Any Stand-By or Backup Electrical Power Generation Facility permitted with an Administrative Permit shall meet all of the following criteria and standards listed below. Any electrical power generation uses that may be permitted with a Site Development Permit, Special Use Permit, or Conditional Use Permit shall meet the standards and criteria below, provided that the Director, Planning Commission, or City Council, as the case may be, may relax such standards or impose stricter standards as a reasonable exercise of their discretion, upon a finding that such modifications are reasonably necessary in order to implement the general intent of this Part and the purposes of this Title.
- B. The standards and criteria for stand-by and back-up electrical power generation uses are as follows:
 - 1. Maximum noise levels, based upon a noise analysis by an acoustical engineer, will not exceed the applicable noise standards set forth in this Title.
 - 2. If the applicable maximum air quality or noise standards are exceeded in the open space, agricultural, or any commercial or industrial zoning district, a Conditional Use Permit issued in accordance with Part 6 of Chapter 20.100 of this Title shall be required.
 - 3. A Bay Area Air Quality Management District (BAAQMD) permit has been issued for the use or evidence to the satisfaction of the Director that the use complies with all applicable BAAQMD requirements has been submitted to the Director.
 - 4. Operation of a Temporary Stand-By or Backup Power Generation Facility, by definition, shall not exceed a maximum time period of four (4) consecutive months in any twelve (12) month period.

CHAPTER 20.90
PARKING AND LOADING
Part 1
General Provisions

20.90.010 Purpose

The purpose of this Chapter is to:

1. Promote adequate off-street parking and off-street loading to meet the needs generated by a specific use.
2. Promote effective circulation, reduce congestion, increase safety and aesthetics within the off-street parking and off-street loading areas
3. Promote proper siting of the off-street parking or off-street loading areas to mitigate potential adverse impacts on adjacent land uses.
4. Encourage the use of alternative modes of transportation and other trip reduction methods.
5. Ensure access and maneuverability for emergency vehicles.

20.90.020 Applicability

- A. Every use, including a change or expansion of a use, shall provide, on site, the required off-street parking in compliance with the provisions of this Chapter except for uses in the Downtown Zoning Districts which are governed by Part 2 of Chapter 20.70.
- B. Any building erected, constructed, or moved shall provide, on site, the minimum number of off-street parking spaces set forth in Table 20-190. No building or moving permit shall be issued for any building unless the application specifies the proposed use of the building and the Building Official is satisfied that adequate provision has been or will be made for the parking spaces as are required by the provisions of this Title.

20.90.030 No Reduction in Off-Street Parking Spaces

Off-street parking spaces existing on February 19, 2001, and/or required as a condition of any Permit or approval by the City of San Jose shall not be reduced in number or size, without an approved Development Permit in accordance with the requirements of Chapter 20.100.

20.90.040 Spaces for One Use Only

An off-street parking space for one use shall not be considered to provide a required off-street parking space for any other use except in the case of an alternating use in accordance with Section 20.90.200.

20.90.050 Definitions

For the purposes of this Chapter 20.90, the following definitions apply:

1. "Off-street parking space" means the area, other than a public street, public way, or other public property, (and exclusive of off-street loading spaces) permanently reserved or set aside for the parking of one automobile or other motor vehicle under one and one-half ton capacity, together with and plus maneuvering areas as are hereinafter specified in this Title; and whenever in this Title the unmodified term "parking space" is used it shall, unless the context clearly requires otherwise, be construed as meaning off-street parking space.
2. "Number of employees" means the greatest number of employees who are or may be on the premises associated with a specific use during any one working shift or period of time of the day or night, as determined by the Director.
3. "Floor area" shall mean eighty-five percent of the "total gross floor area" of the building.
4. "Total gross floor area" shall mean the sum of the gross horizontal areas of the several floors of the building, (including floors below as well as above ground), confined within the interior faces of the exterior walls of the building. A party wall between buildings shall be deemed an exterior wall of each of the buildings of which it is a part.
5. "Open parking" is any parking facility provided, other than within a one-car or two-car garage, and includes carports and open parking floors within buildings, when said parking floors include circulation and backout aisles to serve parking spaces within them.
6. "One-car garage" or "two-car garage" is a fully enclosed parking facility, accessible and securable by a vehicle door, and intended for the storage of one or two (or more) passenger vehicles, respectively, belonging only to the occupants of a single living

unit. No required parking space in excess of two parking spaces shall be located within a fully enclosed parking facility intended to serve a single living unit.

20.90.060 Number of Parking Spaces Required

- A. Each land use shall provide, on site, at least the minimum number of parking spaces required by Table 20-190, unless a modification has been granted pursuant to Section 20.90.220 or 20.90.230.
- B. All required parking shall be made available to residents, patrons and employees of a use on the site.
- C. All parking spaces shall be standard size spaces as set forth in Section 20.90.100. Alternatively, a Development Permit may:
 - 1. Authorize all off-street parking spaces to be uniform-size car spaces, as set forth in Section 20.90.100; or
 - 2. Allow up to forty (40) percent of the off-street parking spaces to be small car spaces as set forth in Section 20.90.100. The remainder of the required off-street parking spaces shall be standard car space as defined in Section 20.100.
- D. If the number of off-street parking spaces hereinafter required contains a fraction, such number shall be rounded to the nearest higher whole number.
- E. Whenever alternative units of measurement are specified in Tables 20-190, 20-200 or 20-210 for computing off-street parking requirements for any given use, the unit of measurement which provides the greatest number of off-street parking spaces for such use shall control.
- F. The minimum number of off-street parking spaces required for any given use is the same irrespective of the district in which such use is conducted. In case of a use for which off-street parking requirements are not specified at all, the requirements for the most nearly similar use for which off-street parking requirements are specified shall apply.
- G. When two or more uses are located in the same lot or parcel of land or within the same building, the number of off-street parking spaces required shall be the sum total of the requirements of the various individual uses computed separately in accordance with this Chapter 20.90, except as hereinafter provided for alternating uses.

Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Agriculture and Resource Uses		
Agriculture and Resource Uses	1 per employee	
Drive-Through Uses		
Drive-through in conjunction with any use	no additional parking required	
Education and Training		
Day care center	1 per 6 children, up to 5 spaces and thereafter 1 per 10 children (includes employee parking)	
Instructional studios	1 per 150 sq. ft. of floor area	
Private instruction, personal enrichment	1 per 3 students, plus 1 per staff	
School- elementary (K-8) (Private and Public)	1 per teacher, plus 1 per employee	
School- secondary (9-12) (Private and Public)	1 per teacher, plus 1 per employee, plus 1 per 5 students	
School, post secondary	1 per 3 students, plus 1 per staff	
School, trade and vocational	1 per 3 students, plus 1 per staff	
Entertainment and Recreation		
Arcade, amusement	1 per 200 sq. ft.	
Bowling establishment	7 per lane	
Dancehall	1 per 40 sq. ft. open to public	
Driving range	1 per tee, plus 1 per employee	
Golf course	8 per golf hole, plus 1 per employee	
Health club, gymnasium	1 per 80 sq. ft. recreational space	
Miniature golf	1.25 per tee, plus 1 per employee	
Performing arts production per rehearsal space	1 per 150 sq. ft. of floor area	
Poolroom	1 per 200 sq. ft.	
Private club or lodge	1 per 4 fixed seats on the premises, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes	
Recreation, Commercial (indoor)	1 per 80 sq. ft. of recreational area	
Recreation, Commercial (outdoor)	20 per acre of site	
Skating rink	1 per 50 sq. ft. of floor area	
Swim and tennis club	1 per 500 sq. ft. of recreation area	
Motion picture theatre, indoor	1 per 3 seats in theaters with 1-3 screens; 1 per 3.3 seats with 4+ screens	

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Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Motion picture theatre, outdoor	1 per 300 sq. ft.	
Theaters, Auditoriums, Sports Arenas, and Stadiums -- with or without fixed seats	1 per 4 fixed seats on the premises, plus 1 per 7 linear feet of fixed benches, or 1 per 30 square feet of floor area used for assembly	
Food Services		
Banquet facility	1 per 2.5 seats or 1 per 40 square feet of dining area, whichever requires the greater number of parking spaces	
Caterer w/eating facility (not a catering facility)	1 per 2.5 seats or 1 per 40 square feet of dining area, whichever requires the greater number of parking spaces	
Caterer w/no public interface	1 per 250 sq. ft.	
Drinking establishments	1 per 2.5 seats or 1 per 40 square feet of drinking area, whichever requires the greater number of parking spaces	
Entertainment (with any food or alcohol service)	1 per 40 sq. ft. of floor area open to the public	
Public eating establishments	1 per 2.5 seats or 1 per 40 square feet of dining area, whichever requires the greater number of parking spaces	
Take-out Only Establishment (including but not limited to pizza delivery, ice cream shops, doughnut shops)	1 per 75 sq. ft. of area open to the public, minimum of 5 spaces, plus 1 per delivery vehicle (if applicable)	
General Retail		
Alcohol, off-site sales	1 per 200 sq. ft.	Part 11, Chapter 20.80
Auction house	1 per 2 seats, or 1 per 50 sq. ft. of auction area exclusive of warehouse area	
Food, beverage, groceries	1 per 200 sq. ft.	
Plant nursery	1 per 200 sq. ft.	
Open air sales establishments and areas	1 per 200 sq. ft.	
Outdoor vending	3 parking spaces	Part 10, Chapter 20.80
Pawn shop/broker	1 per 200 sq. ft.	
Retail or wholesale commercial entity, single occupant greater than 100,000 gross square feet	1 per 200 sq. ft.	
Retail sales, goods and merchandise	1 per 200 sq. ft.	
Retail sales of furniture	1 per 250 sq. ft.	

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Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Sales, appliances, industrial equipment, and machinery	1 per 1000 sq. ft.	
Neighborhood Shopping Center (minimum 100,000 sq. ft. in size), includes a mix of permitted and conditional uses	1 per 225 sq. ft.	Note 1
General Services		
Bed and Breakfast	2 spaces, plus 1 per guest room, plus 1 per employee	
Crematory	1 per full-time employee	
Dry cleaner	1 per 200 sq. ft.	
Hotel/motel	1 per guest room or suite, plus 1 per employee	Section 20.90.220(C)
Laundromat	1 per 200 sq. ft.	
Maintenance and repair, small consumer goods	1 per 200 sq. ft.	
Messenger services	1 per 200 sq. ft., plus 1 per company vehicle	
Mortuary and funeral services	1 per 4 seats, plus 1 per company vehicle	
Personal services	1 per 200 sq. ft.	
Photo processing and developing	1 per 200 sq. ft.	
Printing and publishing	Minimum 1 per 350 sq. ft., maximum 5% over minimum required.	
Social Service Agency	1 per 250 sq. ft.	
Health and Veterinary Services		
Animal boarding, indoor	1 per employee, plus 1 per 1,000 sq. ft.	
Animal grooming	1 per 200 sq. ft.	
Emergency Ambulance Station	1 per employee, plus 1 per on-site staff, plus 1 per facility vehicle	
Hospital per in-patient facility	1 per 2.5 beds	
Medical clinic/out-patient facility	1 per 250 sq. ft.	
Medical, dental and health practitioner	1 per 250 sq. ft.	
Veterinary clinic	1 per 250 sq. ft.	
Industry		
Catalog and mail order house	1 per 250 sq. ft. of office space plus, plus 1 per 1000 sq. ft. of warehouse and distribution area	
Distribution facility	A minimum of two (2) for facilities with a floor area under five-thousand (5,000) square feet; a minimum of five (5) for facilities with a floor area between five thousand (5,000) sq. ft. and	
		<i>Cont. on next page</i>

Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Distribution facility (<i>cont.</i>)	twenty-five thousand (25,000) sq. ft.; for facilities in excess of twenty-five thousand (25,000) sq. ft. a minimum of one (1) per five-thousand (5,000) sq. ft. or a fraction thereof	
Establishment for the repair, cleaning of household, commercial or industrial equipment or products	1 per 350 sq. ft.	
Hazardous materials storage	1 per employee plus 1 per company vehicle	
Hazardous waste facility	1 per employee plus 1 per company vehicle	
Industrial Services	1 per 350 sq. ft. of floor	
Junkyard	1 per employee	
Laboratory	1 per 350 sq. ft. of floor area	
Manufacturing and Assembly, Light, Medium, Heavy	1 per 350 sq. ft. of floor area plus 1 per company vehicle	
Miniwarehouse/ministorage	1 per 2,000 sq. ft., plus 1 per resident manager	
Outdoor storage	1 per employee	
Private power generation	1 per employee plus 1 per company vehicle	
Research and Development	1 per 350 sq. ft. of floor area	
Stockyard, including slaughter	1 per employee	
Warehouse	A minimum of two (2) for warehouses with a floor area under five-thousand (5,000) square feet; a minimum of five (5) for warehouses with a floor area between five thousand (5,000) sq. ft. and twenty-five thousand (25,000) sq. ft.; for warehouses in excess of twenty-five thousand (25,000) sq. ft. a minimum of one (1) per five-thousand (5,000) sq. ft. or a fraction thereof	
Wholesale sale establishment	1 per 2,000 sq. ft. of floor area, plus 1 per company vehicle	
Offices and Financial Services		
Automatic Teller Machine (Free standing)	2 per machine	
Business support	1 per 200 sq. ft. plus 1 per company vehicle	
Financial institution	1 per 250 sq. ft.	
Offices, business and administrative	1 per 250 sq. ft.	
Private security	1 per 250 sq. ft. office space, plus 1 per employee plus 1 per company vehicle	

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Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Public, Quasi-Public and Assembly Uses		
Cemetery	1 per full-time employee	
Church/Religious Assembly	1 per 4 fixed seats, or 1 per 6 linear feet of seating, or 1 per 30 sq. ft. of area designed for assembly, used together or separately for worship.	
Community television antenna systems	1 per company vehicle	
Museums and libraries (Privately and publicly operated)	1 per 300 sq. ft. of area open to the public	
Parks and playgrounds	1 per 500 sq. ft.	
Community centers	1 per 4 fixed seats, or 1 per 6 linear feet of seating, plus 1 per 200 square feet of area without seating but designed for meeting or assembly by guests, plus 1 per 500 sq. ft. of outdoor area developed for recreational purposes	
Utility facilities, excluding corporation yards, storage or repair yards and warehouses	1 per 1.5 employees, plus 1 per company vehicle	
Recycling Uses		
Processing facility	1 per employee of the largest shift, plus 1 per facility vehicle	
Transfer facility	1 per employee of the largest shift, plus 1 per facility vehicle	
Small collection facility	1 per attendant	
Residential		
Emergency residential shelter	1 per 4 beds, 1 per 250 square feet of floor area which is used for office purposes	Section 20.90.220(C)
Guesthouse	1 per guest room, plus 1 per each employee	
Live/Work	No additional parking required above what is required for commercial use parking	
Living quarters, custodian, caretakers	1 per living unit	
Mixed Use/Ground floor commercial with residential above	Respective commercial and residential parking requirements combined	
Multiple dwelling	See Table 20-210, required parking is determined by the type of parking facility and the number of bedrooms	
One family dwelling	2 covered	Section 20.90.220(B)

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Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Residential Care or Service Facility	1 per first 6 client beds, plus 1 additional space for up to 4 client beds (or portion thereof) above the first six, plus 1 additional space for each additional four client beds (or portion thereof), plus 1 space for each employee or staff member.	Section 20.90.220(C)
Servants quarters attached to a one-family dwelling or attached to a garage structure	1 additional parking space	
SRO Facilities within 2,000 ft. of public transportation		
SRO Residential Hotels	.25 per SRO unit	
SRO Living Unit Facilities with shared kitchen and bathroom facilities	.25 per SRO unit	
SRO Living Unit Facilities with partial or full kitchen and bathroom facilities	1 per SRO unit	
SRO Facilities not within 2,000 ft. of public transportation	1 per SRO unit	
Sororities, fraternities and dormitories occupied exclusively (except for administrators thereof) by students attending college or other educational institutions	1 per guest room, plus 1 per employee	
Temporary farm labor camp necessary to the gathering of crops grown on the site	1 per dwelling unit	
Travel Trailer Parks	1 per employee	
Two family dwelling	See Table 20-200, required parking is determined by the type of parking facility and the number of bedrooms	
Transportation and Utilities		
Common carrier depot	1 per employee, plus 1 per company vehicle	
Communication service exchange	1 per 250 sq. ft. of office/meeting/technician work space, plus 1 per employee, plus 1 per 1000 sq. ft. of space devoted to computer equipment space	
Television and radio studio	1 per 250 sq. ft. of space devoted to office use	
Wireless communication antenna	1 per site	

Cont. on next page

Table 20-190 Parking Spaces Required by Land Use		
Use	Minimum Parking Required	Applicable Sections
Vehicle Related Uses		
Accessory installation, passenger vehicles and pick-up trucks	4 per vehicle work station, plus 1 per employee	
Auto broker, retail w/on-site storage	See Vehicle sales and leasing	
Auto broker, wholesale, no on-site storage	1 per 250 sq. ft.	
Car wash	1 per employee, plus stacking as follows: self service - 5 cars per lane full service - 15 cars (may be in multiple lanes)	Note 3
Gas or charge station	1 per employee, plus 1 per air and water pump service area, plus 1 space for information stop	
Gas or charge station with incidental service and repair	4 per grease rack or vehicle work station, plus 1 per employee, plus 1 per air and water pump service area, plus 1 space for information stop	
Glass sales, installation and tinting	4 per vehicle work station, plus 1 per employee	
Repair and cleaning per detailing of vehicles	4 per grease rack or vehicle work station, plus 1 per employee	
Sale or lease of vehicles	1 per 350 sq. ft. enclosed showroom; 1 per 2,500 sq. ft. open area, plus 2 per service bay	
Exclusively indoors sales	1 per 200 sq. ft.	
Auto rental agency	1 per 400 sq. ft., plus 1 per rental vehicle	
Sale, vehicle parts	1 per 200 sq. ft.	
Tires, batteries, accessories, lube, oil change, smog check station, air conditioning	4 per grease rack or vehicle work station, plus 1 per employee	
Vehicle wrecking, including sales of parts	1 per employee	

Notes:

1. A covenant of easement is required when multiple parcels are involved.
2. Stacking shall be calculated at twenty (20) feet per car.

Table 20-200 Two-family Dwelling			
Living Unit Size	Type of Parking Facility		
	All Open Parking	One-Car Garage	Two-Car Garage
0 Bedroom (Studio)	1.5	1.5	2.0
1 Bedroom	1.5	2.0	2.0
2 Bedroom	2.0	2.0	2.0
3 Bedroom	2.0	2.0	2.0
Each Additional Bedroom	0.25	0.25	0.25

Table 20-210 Multiple Dwelling			
Living Unit Size	Type of Parking Facility		
	All Open Parking	One-Car Garage	Two-Car Garage
0 Bedroom (Studio)	1.5	1.6	2.2
1 Bedroom	1.5	1.7	2.3
2 Bedroom	1.8	2.0	2.5
3 Bedroom	2.0	2.2	2.6
Each Additional Bedroom	0.15	0.15	0.15

Part 2 Off-Street Parking Space Requirements

20.90.100 Design Standards

- A. All off-street parking spaces shall conform to the design requirements set forth in Table 20-220.
- B. Off-street parking spaces for small cars shall be marked as such.
- C. Notwithstanding the provisions of this Section, the approving person or body pursuant to the provisions of this Title may allow reduction of the minimum width of certain twenty-six (26) foot aisles on a site to not less than twenty (20) feet, provided such reduction will not impair the safe and convenient accessibility of the parking spaces affected thereby, and the safety of the site, as otherwise provided in this Section.

Table 20-220 Design Requirements - Off-Street Parking Spaces					
	Angle of Off-Street Parking Space from Wall, Curb or Fence (Parking Angle in Degrees)				
	90	60	45	30	0
Minimum Width of Parking Space (feet)					
Full-size car spaces	9	9	8.5	8.5	8
Small car spaces	8	8	8	8	8
Uniform-size car spaces	8.5	8.5	8.5	8.5	8
Length of Space (feet)^{Note 1}					
Full-size car spaces	18	19.8	18.7	16.4	22
Small car spaces	16	17.6	16.6	14.6	20
Uniform-size car spaces	17	18.7	17.7	15.5	21
Minimum Width of One-way Aisle (feet)					
Full-size car spaces	20	16	15	14	12
Small car spaces	20	16	15	14	12
Uniform-size car spaces	20	16	15	14	12
Minimum Width of Two-way Aisle (feet)					
	26	26	26	26	26

Note 1: Length of Space means the minimum distance measured at right angles, from wall, curb, or fence, to nearest edge of aisle (length of stall perpendicular to aisle).

20.90.110 Maintenance

All off street parking spaces and associated facilities, including curb directional markings, disabled symbols, landscaping, signs, striping, and wheel stops, and other facilities, shall be permanently maintained by the property owner in good repair, free of litter and debris, potholes, obstructions and stored materials.

20.90.120 Setbacks

- A. No off-street parking space or off-street loading space shall be located within any side or front setback area required by other provisions of this Title.
- B. In no event shall the setback for any parking area consisting of six or more parking spaces located in, or adjoining, any Residential District be less than the front setback, and corner side setback, if any, of the adjoining residential lot or parcel.

20.90.130 Driveways

Each off-street parking space shall be provided with:

- 1. A driveway not less than ten (10) feet wide for ingress and egress; and
- 2. A maneuvering area, such as an aisle or driveway, of appropriate dimension and design to provide safe and efficient means of entry and exit by automobiles and other motor vehicles; and

3. For all lots with a one-family dwelling use, unless otherwise provided in this Title, a driveway not less than twenty-three (23) feet long measured at its shortest side.

20.90.140 Surfacing of Uncovered Off-Street Parking Spaces

The surface of all uncovered off-street parking spaces and aisles shall be treated or paved and maintained in such a manner as to provide a mud-free and dustless surface. When parking facilities having six or more parking spaces are paved with concrete, asphalt or other similar material, each parking space shall be defined by means of painted white lines. Such parking spaces shall be provided with drainage facilities adequate to dispose of all surface water accumulated within the parking area and shall be designed in conformance with current City policy related to post-construction Storm Water Quality Control.

20.90.150 Parking Facilities in Residence Districts-- Restrictions

In a Residential District no Conditional Use Permit shall be issued for a parking facility intended to serve nonresidential uses, unless all of the following conditions are met:

1. The Residential District is immediately adjacent to the non-residentially zoned land where the business or other use to be served by such parking is located.
2. Use of the parking is limited to passenger vehicles belonging to the users of the adjacent business or use being served by the parking.
3. Use of the parking is limited to the hours of operation of the adjacent business or use being served.
4. The following criteria and standards are met:
 1. The minimum lot area and front and corner lot side setbacks of the Residence District are met.
 2. The minimum rear and interior lot side setbacks are ten (10) feet.
 3. All setback areas and all other areas not required for parking spaces or circulation are landscaped.
 4. No part of any parking space, parking aisle or driveway shall be more than one hundred (100) feet from such nonresidential site.
 5. No driveway access is permitted from a public street unless either the public street is one that is designated an arterial or major collector by the General

Plan of the City of San Jose, or the driveway is located within one hundred and fifty (150) feet of such a designated street.

6. Only directional signs are permitted.
7. Lighting shall be located and directed so that it is reflected away from residentially zoned land. No glare which might cause unreasonable annoyance to occupants of properties in the Residential Districts shall be permitted.

20.90.160 Lighting in or Adjacent to Residential Districts

All lighting in connection with any off-street parking spaces located in any Residential District or adjacent to any Residential District shall be arranged and shielded so that light will be reflected away from lands located in such Residential District, and so that there will be no glare which will cause unreasonable annoyance to occupants of properties in such Residential District, or otherwise interfere with the public health, safety or welfare.

20.90.170 Screening and Landscaping

- A. All outdoor off-street parking areas containing six (6) or more parking spaces shall be effectively screened on all sides which adjoin, face, or are directly opposite any lot in a Residential District, or any lot used for residential purposes.
- B. All screening shall be a masonry wall or a solid wooden fence not less than four nor more than six feet in height and of a design that is approved pursuant to the requirements of Chapter 20.100.
- C. The screening shall at all times be maintained in good condition, shall be kept free at all times of signs, and shall be set back from any abutting public street a distance equal to the distance which such parking must be set back from any abutting public street. The space between such screening and any abutting public street shall be landscaped.

20.90.180 Americans with Disabilities Act (ADA) Parking Standards

Specific provisions pertaining to disabled parking requirements may apply to particular land uses per the Federal Americans with Disabilities Act (ADA) requirements. Provisions are provided in Title 24 of the Municipal Code.

Part 3

Exceptions

20.90.200 Off-Site, Alternating Use and Alternative Parking Arrangements

- A. The following off-street parking arrangements may be permitted with a Special Use Permit issued in accordance with Chapter 20.100:
1. Parking facilities on a lot other than the lot occupied by the building or use which they are required to serve.
 2. Alternating use of common parking facilities where certain uses generate parking demands during hours when the remaining uses are not in operation (for example, if one use operates during the day time or on weekends and the other use operates at night or on weekdays).
 3. Parking facilities which accommodate the required number of spaces in an alternative parking design.
- B. In addition to any other findings required for a Special Use Permit, the Director, or Planning Commission on appeal, may approve such parking arrangements only upon making the following findings:
1. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in this Chapter 20.90 of this Title;
 2. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which such facility is required, during the life of the building or use; and
 3. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.
- C. As a condition precedent to approving such parking arrangements, the Director, or Planning Commission on appeal, shall require:
1. Satisfactory statements and evidence by the parties involved in the parking arrangement describing the nature of the use or uses, the timing of demand for such parking if applicable, and the provisions which are to be made to meet the specific parking requirements under this Title.
 2. Such other documents, agreements, commitments, and such other evidence as is deemed necessary in each case.

20.90.210 Change in Structure or Use

- A. No structure constructed, or use instituted, prior to November 10, 1965 shall be required to meet the off-street parking requirements of this Title unless there is a substantial change in the structure or in the use of the structure or land.

For purposes of this Section, "change" means any enlargement, conversion or alteration in structure or use. A "substantial change" means more than a fifteen (15) percent difference between (a) and (b), as follows: (a) the number of parking spaces required under current Code for the structure or use, as it existed on November 10, 1965, and (b) the number of parking spaces required under the current Code for the proposed structure or use. [Substantial Change: $b - a = c$, if $c/b > .15$ (15%)]

1. If the change is not a substantial change, no additional off-street parking is required.
 2. If the change is a substantial change, the current off-street parking requirements shall apply to the entire structure or use.
- B. Except as provided by Section for the Downtown Parking Management Zone, any structure constructed after November 10, 1965 which is changed shall be required to meet and maintain the off-street parking requirements for the entire structure or use.

20.90.220 Reduction in Required Off-Street Parking Spaces

- A. Alternative Transportation

1. A reduction in the required off-street parking spaces of up to ten percent (10%) may be authorized with a Development Permit for structures or uses located within 2,000 feet of a proposed or an existing rail station, and areas designated as neighborhood business districts in the City's General Plan. If no Development Permit is required, a development exception may authorize a reduction.

- B. One-family Dwellings

1. A reduction in the required off-street parking may be authorized with a Development Permit, or a Special Use Permit if no Development Permit is required, for one-family dwellings. The reduction may be made if the following criteria are met:
 - a. At least one covered parking space is provided; and
 - b. No more than one dwelling occupies the lot; and

- c. The location of the required covered parking is set back a minimum of sixty (60) feet from the front property line and fifty (50) feet from the side corner property line; and
- d. The required covered parking is accessed by a driveway of a width no less than ten (10) feet and no more than twelve (12) feet; and
- e. Any curb cuts accessing the parking shall be in proportion to the driveway width; and
- f. No additional paving in the front setback shall be designated or used for parking; and
- g. The floor area of the covered parking structure does not exceed three hundred and fifty (350) square feet; and
- h. The covered parking structure shall meet all other applicable regulations of this Title.

C. Other Uses

- a. A reduction in the required off-street parking for SROs, emergency residential shelters, residential care/service facilities and convalescent hospitals, hotels/motels, bed and breakfast inns, and senior housing uses may be approved with a Development Permit provided that such approval is based upon the findings in Subsection B of Section 20.90.200.

20.90.230 Off-Street Parking Assessment District

- A. Whenever the City Council has undertaken proceedings for the formation of an Off-street Parking Assessment District, the City Council may, by resolution, exempt the territory within such District from the off-street parking requirements set forth in this Chapter 20.90, or modify such requirements as appropriate.
- B. No such exemption or modification of the off-street parking requirements may be approved unless and until the Off-street Parking Assessment District has been formed.
- C. The City Council may at any time, by resolution, terminate any such exemption or modification if the Council determines that the purposes of the Off- street Parking Assessment District will not be achieved.

Part 4

Bicycle and Motorcycle Parking Standards

20.90.300 Purpose

The purpose of this Part, in keeping with the purpose of this Chapter, is to promote effective circulation, reduce congestion, a means for alternative transportation and increase safety and aesthetics through minimum off-street bicycle and motorcycle parking requirements. As primarily related to bicycle use, this Section establishes minimum required shower and changing rooms to further the purpose of this Part.

20.90.310 Minimum Bicycle Parking Spaces Required

- A. The minimum number of bicycle parking spaces required for uses permitted under this Title is set forth in Table 20-230.
- B. A minimum of three (3) bicycle parking spaces shall be provided for each use set forth in Table 20-230.
- C. No bicycle parking spaces shall be required for funeral & mortuary services, car washes, boarding kennels, veterinarian uses and other uses as deemed appropriate.

Table 20-230 Bicycle Spaces Required	
Use	Required Bicycle Spaces
Warehouse	1 bike space for every 10 code-required auto parking spaces
General Industrial	1 bike space for every 50 code-required auto parking spaces
Office, Research & Development	1 bike space for every 50 code-required auto parking spaces
Multi-dwelling	1 space per 4 units
Group Living	1 space per 20 residents
Commercial	1 space per 20 code required auto spaces
Commercial Outdoor Recreation	1 space per 20 code required auto spaces
Arena (Major Event Entertainment)	1 space per 50 code required auto parking spaces
Community Services	1 space per 15,000 sq. ft.
Daycare	1 space per 10,000 sq. ft.
Schools (K-5)	2 spaces per classroom
Schools (6-12)	4 spaces per classroom
Private Learning Institution (excluding dorms, see Group Living)	1 space per 20,000 sq. ft.
Medical Centers	1 space per 40,000 sq. ft.
Religious Institutions	1 space for every 10 code required auto parking spaces

20.90.320 Location

Bicycle parking facilities shall be located in a convenient, highly visible and well lighted area to minimize theft and vandalism, generally within fifty (50) feet of a building entrance and within view of pedestrian traffic.

20.90.330 Bicycle Parking Design Standards

- A. For the purpose of this Section, bicycle parking facilities shall refer to bicycle racks, lockers and like facilities, unless otherwise specified.
 - 1. All bicycle parking provided shall be on concrete or like surface.
 - 2. Bicycle parking facilities shall be securely anchored to the lot surface so they cannot be easily removed and shall be of sufficient strength to resist vandalism and theft.
 - 3. Bicycle parking facilities shall support bicycles in a stable position without damage to wheels, frame or other components.
 - 4. Bicycle parking facilities within auto parking areas shall be separated by a physical barrier to protect bicycles from damage by automobiles and other moving vehicles. Such mentioned barriers may be in the form of curbs, wheel stops, poles or other similar features.
 - 5. At a minimum, bicycle parking spaces shall be at least two (2) feet in width by six (6) feet in length to allow sufficient space between parked bicycles.
 - 6. Bicycle parking facilities, particularly bicycle parking racks, are subject to the following criteria:
 - a. Located a minimum of two feet (2) away from a parallel wall.
 - b. Located thirty inches (30) from a perpendicular wall, as measured from the edge of the facility closest to the wall and in the direction bicycles are to be parked.
 - c. Provide a minimum five foot (5) wide aisle or space behind all required bicycle parking to allow room for bicycle maneuvering.
- B. If bicycle parking racks are to be utilized to provide the required minimum off-street bicycle parking, racks shall be designed to support the bicycle by its frame and allow the use of either a cable lock or a U-shaped lock.

20.90.340 Showers and Changing Rooms

- A. Showers and changing rooms are required as set forth in Table 20-240.
- B. Showers and changing rooms must be accessible to all employees .

Table 20-240 Showers Required	
Use	Required Showers
Warehouse (85,000-425,000 sq. ft.)	1 shower
Warehouse (425,001-635,000 sq. ft.)	2 showers, plus 1 additional shower for each additional 425,000 square feet of warehouse use above 635,000 square feet.
General Industrial (40,000-200,000 sq. ft.)	2 showers
General Industrial (200,001-300,000 sq. ft.)	3 showers, plus 1 additional shower per each additional 200,000 square feet of industrial use above 300,000 square feet.
Office, Research & Development (30,000-150,000 sq. ft.)	2 showers
Office, Research & Development (150,001-225,000 sq. ft.)	3 showers, plus 1 additional shower per each additional 150,000 square feet of office or research and development use above 225,000 square feet.

20.90.350 Minimum Motorcycle Parking Spaces Required

- A. The minimum number of motorcycle parking spaces required for uses permitted under this Title is set forth in Table 20-250.
- B. A minimum of three (3) motorcycle parking spaces shall be provided for each use set forth in Table 20-250.
- C. No motorcycle parking shall be required for car washes, boarding kennels and other uses as deemed appropriate.

Table 20-250 Motorcycle Parking Spaces	
Use	Required Motorcycle Parking Spaces
Warehouse	1 motorcycle space for every 10 code-required auto parking spaces
General Industrial	1 motorcycle space for every 50 code-required auto parking spaces
Office, Research & Development	1 motorcycle space for every 50 code-required auto parking spaces
Multi-dwelling	1 motorcycle space per 4 units
Group Living	1 motorcycle space per 20 residents

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Table 20-250 Motorcycle Parking Spaces	
Use	Required Motorcycle Parking Spaces
Commercial	1 motorcycle space per 20 code required auto parking spaces
Commercial Outdoor Recreation	1 motorcycle space per 20 code required auto parking spaces
Arena (Major Event Entertainment)	1 motorcycle space per 20 code required auto parking spaces
Community Services	motorcycle space per 15,000 sq. ft.

20.90.360 Location

Motorcycle parking facilities shall be located in a convenient, highly visible and well lighted area to minimize theft and vandalism, generally within fifty (50) feet of a building entrance, adjacent to handicap parking and within view of pedestrian traffic.

20.90.370 Motorcycle Parking Design Standards

- A. Surfacing of motorcycle parking provided shall conform to the provisions of Section 20.90.140.
- B. Motorcycle parking spaces shall be a minimum of three (3) feet in width and six (6) feet in length.
- C. Motorcycle parking facilities within auto parking areas shall be separated by a physical barrier to protect motorcycles from damage by automobiles and other moving vehicles. Barriers include curbs, wheel stops or other similar features.

Part 5 **Off Street Loading Spaces**

20.90.400 Definition

"Off-street loading space" means an area, other than a public street, public way, or other property, (and exclusive of off-street parking spaces) permanently reserved or set aside for the loading or unloading of motor vehicles, including ways of ingress and egress and maneuvering areas. Whenever the term "loading space" is used, it shall, unless the context clearly requires otherwise, be construed as meaning off-street loading space.

20.90.410 Required Off-Street Loading Spaces

- A. Any building, or part thereof, constructed, erected, or moved within or onto any lot or parcel of land in any district for any use as described in subsection B, having a floor area

of ten thousand (10,000) square feet or more shall provide at a minimum one (1) off-street loading space, plus one (1) additional such loading space for each twenty thousand (20,000) square feet of floor area.

- B. This section shall apply to buildings intended for use by a manufacturing plant, storage facility, warehouse facility, goods display facility, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning establishment, or other use or uses similarly requiring the receipt or distribution by vehicles or trucks of material or merchandise; and
- C. Such off-street loading space(s) shall be maintained during the existence of the building or use they are required to serve.

20.90.420 Size of Off-Street Loading Spaces

Each off-street loading space required by this Part shall be not less than ten feet wide, thirty feet long and fifteen feet high, exclusive of driveways for ingress and egress and maneuvering areas.

20.90.430 Driveways for Ingress, Egress and Maneuvering Areas (Off-Street Loading Spaces)

Each off-street loading space required by this Part shall be provided with driveways for ingress and egress and maneuvering space of the same type and meeting the same criteria required for off-street parking spaces.

20.90.440 Location in Relation to Residence Districts

No off-street loading space required by this Part shall be closer than fifty (50) feet to any lot or parcel of land in a Residence District unless such off-street loading space is wholly within a completely enclosed building or unless enclosed on all sides by a wall not less than eight (8) feet in height.

Part 8 Alum Rock Village Parking Management Zone

20.90.800 Alum Rock Village Parking Management Zone - Creation

An Alum Rock Village Parking Management Zone is hereby established, said zone comprising those certain real properties shown upon that certain map of the Alum Rock Village Parking Management Zone dated March 20, 2001, and, as of that date, consisting of those certain Assessor Parcel Numbers, all shown on those certain attachments to Ordinance No. 26325 adopted by the City Council on April 3, 2001.

20.90.810 Exemption for Street Level Uses

Street level uses located on real properties subject to 20.90.060 of this Title and within the Alum Rock Village Parking Management Zone shall be exempt from all parking requirements under this Title, subject to Section 20.90.830.

20.90.820 Change in Use - Special Use Permit

Any change in use of a legal nonconforming structure, as that term is defined in this Title, shall remain exempt from the parking requirements of this Title pursuant to Section 20.90.810, but shall require the approval of a Special Use Permit by the Director pursuant to the provisions of Part 7 of Chapter 20.100 of this Title.

20.90.830 Change in Use - Off-Street Parking Required

Any change in use at street level is exempt from requirements to provide additional off-street parking under this Title unless the total amount of parking that would be required for the proposed new use under this Title exceeds twice the parking requirement of the same floor area if it were a retail use as calculated using Table 20-190 (1 space/200 square feet of net floor area). If the parking requirement for the proposed new use exceeds twice the parking requirement of the retail equivalent for off-street parking, the new use shall not be exempt from and shall be subject to the parking requirements under this Title.

20.90.840 No Reduction in Off-Street Parking Spaces

Off-street parking spaces existing on May 3, 2001 and/or required as a condition of any Permit or approval by the City of San Jose shall not be reduced in number or size, without an approved Development Permit in accordance with the requirements of Chapter 20.100 of this Title. In considering any reduction in the number of off-street parking spaces, the Director shall find that there is no overall net loss of off-street parking spaces within the Alum Rock Village Parking Management Zone.

CHAPTER 20.95

STORM WATER MANAGEMENT

Part 1

General Provisions

20.95.010 Purpose

The purpose of this Chapter is to achieve all of the following:

- A. Promote adequate storm water management; and
- B. Promote proper siting of storm water runoff treatment to mitigate potential adverse impacts on adjacent land uses; and
- C. Encourage the use of alternative modes of storm water runoff treatment; and
- D. Ensure access to storm water treatment measures; and
- E. Enable the permitting of Off-Site Storm Water Runoff Treatment facilities without creating adverse conditions or impacts on the subject or neighboring properties.

20.95.020 Applicability

The provisions of this Chapter shall apply whenever the creation, on or above ground through installation, construction, or replacement, of one (1) gross acre or more of impervious surface will occur through a proposed development of real property.

Part 2

Storm Water Runoff Treatment Requirements

20.95.110 Conformance

Whenever the creation, on or above ground through installation, construction, or replacement, of one (1) gross acre or more of impervious surface will occur as a part of a proposed development of real property, that development shall be designed in conformance with City Council Policy No. 6-29, entitled “City Council Policy on Post Construction Urban Runoff Management,” and in conformance with the provisions of this Chapter and Chapter 20.100 of this Title, all as the same may be amended from time to time.

20.95.120 Maintenance

All storm water runoff treatment measures installed on property shall be permanently maintained by the property owner in good repair and free of litter and debris, obstructions, and stored materials.

Part 3 Off-Site Storm Water Treatment

20.95.210 Permit Required

No person shall place, construct or operate, or permit the placement, construction, or operation, of any Off-Site Storm Water Runoff Treatment facility on a site without first obtaining a Special Use Permit issued in accordance with the provisions set forth in Chapter 20.100 of this Title.

20.95.220 Special Use Permit for Off-Site Storm Water Runoff Treatment

- A. An applicant for a Special Use Permit to allow the placement, construction or operation of Off-Site Storm Water Runoff Treatment facilities shall, in addition to all other Special Use Permit requirements, declare under penalty of perjury that the Off-Site Storm Water Runoff Treatment facilities sought for placement, construction or operation under the Special Use Permit will at all times be maintained in full conformance with each and every one of the criteria and standards set forth in this Part.
- B. A Special Use Permit to allow an Off-Site Storm Water Runoff Treatment facility shall not be issued unless the Director first determines that all of the applicable criteria and standards set forth in this Part are or can be met at the time of issuance of the Permit.

20.95.230 Criteria and Standards

- A. Any Off-Site Storm Water Runoff Treatment facility that may be permitted with a Special Use Permit shall meet the standards and criteria set forth below; provided, however, that the Director, or Planning Commission on appeal, may modify such standards and criteria or impose stricter standards or criteria upon a finding that such modifications are reasonably necessary in the Director's or Commission's determination in order to implement the purposes of this Title and, more specifically, the purposes of this Part set forth in Section 20.95.010 above.
- B. The standards and criteria for Off-Site Storm Water Runoff Treatment facilities are as follows:
 - 1. The Off-Site Storm Water Runoff Treatment facilities shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on

Post Construction Urban Runoff Management,” and in conformance with the provisions of Chapter 20.100 of this Title.

2. Prior to the issuance of any Public Works Clearance, a covenant of easement for ingress/egress and operation and maintenance purposes to be maintained in perpetuity shall be recorded by the applicant and the property owner on the subject property on which the Off-Site Storm Water Runoff Treatment facility is located with all necessary subordinations to the satisfaction of the Director of Planning and the Director of Public Works.
3. The applicant shall be responsible for operating and maintaining the Off-Site Storm Water Runoff Treatment in accordance with the conditions of the Special Use Permit.

CHAPTER 20.100

ADMINISTRATION AND PERMITS

Part 1 Permits

20.100.010 Overview

- A. This Chapter identifies the Permits and other approvals required by the various provisions of this Title and sets forth the applicable procedures for application, processing and approval.
- B. As a general rule, unless otherwise exempt, any use which involves new construction, erection, placement, paving, or installation or exterior alteration or enlargement of an existing use requires a Development Permit as defined in Section 20.200.270.

Part 2 Common Procedures

20.100.100 Purpose

- A. The purpose of this Part is to establish common procedures for the filing of applications, notice of public hearings, appeal of decisions, and enforcement of permits for all Development Permits and other approvals governed by this Chapter 20.100.
- B. The procedures of this Part 2 shall apply to all Development Permits and approvals governed by this Chapter 20.100, unless specifically modified by another Section of this Chapter.

20.100.110 Application

- A. All applications pursuant to this Chapter 20.100 shall be filed with the Director in a form prescribed by the Director.
- B. Except as provided in Subsection C below, a separate application shall be filed for each site and each application shall be signed by:
 - 1. All owners of the real property included in the site or sites; or
 - 2. Such person or persons having the lawful power of attorney; or

3. By a qualified tenant. A “qualified tenant” for purpose of this Section shall mean the exclusive tenant of the entire site and parcel subject to the application, under a recorded lease which has a remaining term of five or more years at the time of application; or
 4. The City Manager of the City of San Jose or the Executive Director of the San Jose Redevelopment Agency.
- C. The following provisions shall govern Development Permit applications for the removal and relocation of a building from one parcel to another parcel in the City:
1. A single application pertaining to both parcels shall be required; and
 2. The application shall be signed by all of the owners of each parcel or by such person or persons having the lawful power of attorney therefor.

20.100.120 Application Received

No application shall be deemed received until the following have been provided:

1. All fees for the application as set forth in the Schedule of Fees established by resolution of the Council have been paid. No fee shall be deemed paid until any negotiable instrument has been cleared and funds received on the City’s account.
2. All documents specified as part of the application in this Chapter or on the application form have been filed.

20.100.130 Concurrent Filing

- A. An application for a Permit pursuant to this Chapter may be filed and processed concurrently with either:
1. A petition to rezone the property that is the subject of the application; or
 2. A petition to prezone and annex the subject property to the City; or
 3. Other Development Permits or approvals required by this Title.
- B. When any application is filed concurrently pursuant to this Chapter, the applicant shall sign a statement acknowledging that the application shall not be deemed complete and eligible for hearing until either:
1. The adoption date of the ordinance that rezones the property that is the subject of the application; or

2. The later effective date of:
 - a. An ordinance that prezones the subject property; and
 - b. A reorganization that annexes the subject property to the City.
- C. Any approval governed by this Title may be approved after final adoption of an ordinance rezoning the property, but shall not be effective unless and until the referendum period has expired without challenge for the ordinance rezoning the property.

20.100.140 Concurrent Review

- A. Whenever applications for the same site have been filed for one or more Development Permits or approvals required by this Title, such Development Permit or approvals may be reviewed and acted on in a unified process. Tree Removal Permits governed by Chapter 13.32 of Title 13 of the San Jose Municipal Code may be included in the unified process. Subdivision approvals governed by Title 19 of the San Jose Municipal Code may be included in the unified process.
- B. The unified process shall use the procedures required for the highest level Permit or approval. Permits and approvals are ranked as follows with the highest level Permit or approval listed first: Rezoning; Conditional Use Permit; Subdivisions; Planned Development Permit; Special Use Permit; Site Development Permit; Single Family House Permit-Director's Decision; Development Exception; Development Variance; Sidewalk Café Permit; Tree Removal Permit; Single Family House Permit-Administrative Decision.
- C. The hearing body shall make the findings, if any, applicable to each Permit or approval.

20.100.150 Determination of Incompleteness

- A. Not later than thirty (30) calendar days after an application has been received, the Director shall notify the applicant if the application is not complete. The Director shall specify those parts of the application which are incomplete and shall indicate the manner in which it can be made complete, including a list and thorough description of specific information needed to complete the application.
- B. Not later than thirty (30) calendar days after the submittal of additional information in response to notification pursuant to the above section, the Director shall notify the applicant if the application is still not complete. The Director shall specify those parts of the application which are incomplete and shall indicate the manner in which it can be made complete, including a list and thorough description of specific information needed to complete the application.

- C. If the determination, pursuant to the above sections, is not made within the thirty-calendar (30) day period, the application, together with the submitted materials, will be deemed complete and the application shall be eligible for hearing on the merits. Nothing herein shall preclude the Director, the Planning Commission or the City Council from denying the application on the grounds that the information provided is inadequate to demonstrate that the application should be approved in accordance with this Title.
- D. Nothing herein precludes an applicant from waiving the right to a determination of incompleteness or from extending the period of time for a determination of completeness.

20.100.160 Appeal of Determination of Incompleteness

- A. The determination of incompleteness by the Director may be appealed in writing to the Planning Commission.
- B. The Planning Commission shall review the submitted documents at a public meeting and shall issue a final written determination not later than sixty (60) days after the receipt of the written appeal, unless the applicant agrees to extend the time period.
- C. If the determination, pursuant to this Section, is not made within the sixty (60) calendar day period, the application together with the submitted materials will be deemed complete and the application shall be eligible for hearing on the merits. Nothing herein shall preclude the Director, the Planning Commission or the City Council from denying the application, on the grounds that the information provided is inadequate to demonstrate that the application should be approved in accordance with this Chapter.

20.100.170 Amendment or Withdrawal of Applications

- A. The applicant may amend the application, at will, at any time prior to the opening of any required public hearing on the application. Thereafter, the application may be amended only with the consent of the decision maker before whom the matter is pending.
- B. The application may be amended in any way except where:
 - 1. A change in boundaries would result in a change in the requirements for notice pursuant to Section 20.100.190; or
 - 2. A change is determined by the Director not to be covered by the environmental clearance issued for the application pursuant to Title 21.
- C. A change in the application may require additional fees to be paid as set forth in the Schedule of Fees related to the change.

20.100.180 Environmental Review

If required by the Director, every application shall be accompanied by an application for, or verification of, environmental clearance or exemption for the project in accordance with Title 21 of the San Jose Municipal Code.

20.100.190 Notice of Public Hearing

- A. Notice of time, place, and purpose of any hearing required by this Chapter shall be as follows:
 - 1. To the applicant and any appellants at the addresses designated for such purpose on the application; and
 - 2. To the owners, as shown on the last equalized assessment roll adopted by the County of Santa Clara, within a three hundred (300) foot radius of the property that is the subject of the application; and
 - 3. To anyone who has submitted a Request for Notice as prescribed in Section 20.100.200; and
 - 4. To any occupant of property within a three hundred (300) foot radius of the property that is the subject of the application.
- B. The Director may increase the three hundred (300) foot radius for notice. Nothing herein shall preclude the City from requiring or providing additional notice to other persons or in any other manner.
- C. Any notice of hearing by the Director or Planning Commission shall be as prescribed by the Director and shall be mailed by the Director or authorized mail service, postage prepaid, at least ten (10) calendar days before the date set for hearing. Upon the mailing of such notice, a declaration that such notice has been mailed shall be filed in the proceedings.
- D. Any notice of hearing by the City Council shall be as prescribed by the City Clerk and shall be mailed by the City Clerk, or authorized mail service, postage prepaid, at least ten (10) calendar days before the date set for the hearing. Upon the mailing of such notice, a declaration that such notice has been mailed shall be filed in the proceedings.
- E. Notwithstanding the above, the failure of the Director or City Clerk to mail any notice or the failure of any person to receive the same shall not affect, in any way whatsoever, the validity of any proceedings taken under this Part, nor of any action or decision of the Director, Planning Commission or City Council made or taken in any such proceedings,

nor prevent the Director, the Planning Commission or City Council from proceeding with any hearing at the time and place set therefor.

- F. All fees for mailings set forth in the Schedule of Fees adopted by resolution of the City Council shall be paid by the applicant prior to mailing the notice. Failure of the applicant to comply with this provision could result in a delay of a hearing and/or a decision on an application.

20.100.200 Request for Notice

Any person may request to be given notice of any public hearing with regard to any application or appeal by filing a Request for Notice and self-addressed stamped envelopes with the Director at any time after the application has been received. Said request shall be filed in the project file. A separate request and envelopes must be provided for each separate permit, approval applied for, or appeal with regard to any project.

20.100.210 Decision

- A. With respect to any Permit or approval, the Director, Planning Commission, or City Council as designated by this Title, may:
 - 1. Deny the permit or approval; or
 - 2. Grant a permit or approval based on the plan proposed by the applicant, and may make such permit or approval subject to conditions; or
 - 3. Grant a permit approval based on a plan substantially different from the plan proposed by the applicant, and may make such permit or approval subject to conditions; provided, however, that any variance or such exception shall not be greater than the amount of variance or exception requested in the application, nor, in the case of a variance, be a different type of variance or for a variance which covers a different part of the subject property from that designated in the application.
- B. The Director shall mail a copy of the decision to the applicant at the addresses shown for such purpose on the application.

20.100.220 Appeal - Hearing Body

Decisions on permits or approvals pursuant to this Chapter are subject to appeal as set forth in Table 20-260 which lists the initial decision maker and the decision making body which will hear any appeal.

Table 20-260 Appeal Hearing Body		
Application	Initial Decision Making Body	Appeal Decision Making Body
Administrative Permit	Director of Planning	No Appeal
Site Development Permit	Director of Planning	Planning Commission
Site Development Permit – Projects within Downtown Districts and exceeding 150 feet and FAR of 6:1	Director of Planning	City Council
Single -Family House Permit Administrative Decision Director's Hearing	Director of Planning Director of Planning	No Appeal Planning Commission
Planned Development Permit	Director of Planning	Planning Commission
Special Use Permit	Director of Planning	Planning Commission
Conditional Use Permit	Planning Commission	City Council
Variance	Director of Planning	Planning Commission
Exception	Director of Planning	Planning Commission
Sidewalk Café Permit 1	Director of Planning	City Council
Tree Removal Permit	Director of Planning	Planning Commission

20.100.230 Appeal - Eligibility

- A. An appeal may be filed by the applicant or any property owner or any tenant of property within one thousand (1,000) feet of the subject site.
- B. Any appeal must be accompanied by the fee as set forth in the Schedule of Fees adopted by resolution of the City Council.

20.100.240 Appeal - Appeal Period

- A. A Notice of Appeal must be filed with the Director of Planning within ten (10) calendar days after the copy of the written decision of the initial decision maker is mailed to the applicant. If no such appeal is filed by the 5:00 p.m. on the tenth (10th) day, the decision of the initial decision maker becomes final on the eleventh (11th) day.
- B. Any Notice of Appeal shall set forth the specific grounds of the appeal.

20.100.250 Appeal - Withdrawal

An appeal may be withdrawn by the appellant at their will prior to the expiration of the appeal period set forth in Section 20.100.240. Any request for withdrawal made after the appeal period shall be acted upon by the Planning Commission or City Council at the scheduled public hearing on the appeal.

20.100.260 Appeal - Suspension of Initial Decision

If a Notice of Appeal has been duly accepted by the Director, the decision of the initial decision maker shall not be final and it shall be of no force and effect unless the appeal is withdrawn prior to the appeal hearing.

20.100.270 Appeal - Planning Commission Procedures

Any appeal to the Planning Commission is subject to the following:

1. The Director shall, subject to the rules of the Commission, set a date for the hearing. The date of hearing shall be not less than ten (10) nor more than sixty (60) calendar days after receipt of the Notice of Appeal.
2. The Planning Commission shall hold at least one public hearing on the matter. The Director shall provide a report and recommendation to the Commission. In addition, the Director shall file with the Commission at its hearing all relevant papers, documents, and exhibits which are part of the file. The Planning Commission shall hear the matter de novo.
3. Within a reasonable time after the Commission has concluded its hearing, it shall, by resolution, set forth its findings and decision on the matter. The decision of the Planning Commission is the final and is not subject to further appeal.
4. A copy of the decision of the Planning Commission shall be mailed to the applicant and the appellant at the addresses shown for such purpose on the application and Notice of Appeal.

20.100.280 Appeal - City Council Procedures

Any appeal to the City Council is subject to the following:

1. The Director shall, within ten (10) calendar days of receipt of the appeal, file a copy of the application and the Notice of Appeal with the City Clerk.
2. The Council shall hold at least one public hearing on the matter. The hearing of the City Council shall be de novo. The City Clerk shall set the date of the public hearing by the Council. The date of hearing shall be the first available date not less than ten (10) days after receipt of the Notice of Appeal. Within a reasonable time after the Council has concluded its hearing, it shall, by resolution, set forth its findings and decision on the matter.
3. The decision of the Council shall be final. The City Clerk shall mail a certified copy of the decision of the Council to the applicant and the appellant at the addresses shown for such purpose on the application and Notice of Appeal.

20.100.290 Acceptance

- A. After the time for any appeal has expired and no appeal has been filed by a qualified appellant, the Permit or other approval issued shall be deemed final, subject to the provisions of Subsection 20.100.290.D below.
- B. If the applicant fails to file a timely and valid appeal of the Permit or other approval within the applicable appeal period, such inaction by the applicant shall be deemed to constitute all of the following on behalf of the applicant:
 - 1. Acceptance of the Permit or approval by the applicant; and
 - 2. Agreement by the applicant to be bound by, to comply with, and to do all things required of or by the applicant pursuant to all of the terms, provisions, and conditions of the Permit or other approval and the provisions of this Title applicable to such Permit or other approval.
- C. If the applicant is a qualified tenant, such tenant shall, and it shall be the responsibility of such tenant to, inform the property owner(s) of the issuance of the Permit or other approval, together with the terms, conditions and provisions of such Permit or other approval, including without limitation provisions contained in such Permit or approval that require dedication of land, restrictive covenants or other commitments beyond the scope of a tenancy.
- D. No Permit or other approval shall have any force or effect prior to the elapse of the applicable appeal period and the recording of a certificate pursuant to the provisions of Section 20.100.300 below.

20.100.300 Recordation

- A. No Permit or other approval shall be effective until a Certificate of Permit or other approval has been recorded with the County Recorder's Office. Upon the Permit or other approval becoming final, in accordance with the provisions of Section 20.100.290, fulfillment of all conditions precedent to release pursuant to this Chapter and the payment of recordation fees, a certificate identifying the Permit or other approval shall be recorded by the City. The Permit or other approval shall become effective and the rights and restrictions therein shall run with the land.
- B. If any Permit or other approval is revoked after a hearing on an Order to Show Cause pursuant to this Chapter, a Certificate of Revocation shall be recorded with the County Recorder's Office.

20.100.310 Compliance Required

- A. No person shall use, maintain or suffer the use or maintenance of any real property except in full and complete compliance with this Chapter and in precise conformity to all the requirements and conditions of any Permit or approval issued pursuant to this Chapter.
- B. Any use permitted by this Title shall be conducted in full compliance with all local and State laws. Any permit hereunder is subject to revocation if it is conducted in such a manner as to cause a nuisance as defined by this Title.

20.100.320 Notice of Noncompliance

- A. The Director may issue a Notice of Noncompliance for any failure to comply with any requirement of this Title or any condition of a Development Permit or approval.
- B. The Notice of Noncompliance shall be sent by certified mail to the address of the subject property and the owner of the property at the address shown on the last equalized assessment roll adopted by the County of Santa Clara.
- C. Such notice shall set forth the action necessary to come into compliance and a timeframe for compliance.

20.100.330 Order to Show Cause

If the noncompliance is not abated, corrected, or rectified within the time specified by the Director in said notice, the Director may issue an Order to Show Cause why such Permit or approval shall not be revoked, suspended or modified. An Order to Show Cause shall be set for a public hearing before the Planning Commission pursuant to the Section 20.100.340.

20.100.340 Hearing on an Order to Show Cause

- A. At the time specified in the Order to Show Cause or at such later time to which the matter is continued, the Planning Commission shall hold a hearing to determine if the Permit or approval shall be revoked.
- B. The procedures set forth in this Chapter 20.100 shall equally apply to a hearing on an Order to Show Cause except as hereinafter expressly set forth.
- C. The decision of the Planning Commission shall be final except for Conditional Use Permits and Single-family House Permits-City Council Decision.
- D. The decision of the Planning Commission on an Order to Show Cause relating to a Conditional Use Permit may be appealed to the City Council by the owner or tenant of the subject property.

20.100.350 Revocation, Suspension, or Modification

After a hearing on an Order to Show Cause, the Commission at its discretion may revoke, suspend, or modify any Permit or other approval upon finding that:

1. A violation of any condition of a Development Permit, Development Variance, Development Exception or other approval was not abated, corrected or rectified within the time specified on the notice of violation; or
2. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the Notice of Noncompliance; or
3. A use as presently conducted creates a nuisance.

20.100.360 Effect of Revocation

- A. When a revocation of a Permit or approval has become final, the City shall file a Revocation Certificate with the County Recorder.
- B. Any building or structure built under any approval which is later revoked shall be deemed to be in violation of this Chapter and this Title as if no such approval had ever been issued.
- C. Irrespective of prior permits or approvals issued, it shall be a violation of this Title to utilize any property for which the approval has been revoked, for any purpose which requires an approval under this Title, without obtaining the necessary approvals pursuant to this Chapter, except as set forth in Section 20.100.370.

20.100.370 Effect of Revocation or Nonrenewal - Conditional Use Permit

Upon revocation or nonrenewal of a Conditional Use Permit:

1. A residential property which was subject to a Conditional Use Permit may be utilized for unconditionally permitted residential purposes in accordance with this Title.
2. A property, other than residential, which was subject to a preexisting Site Development Permit may be utilized in accordance with and conformity to the Site Development Permit.
3. It shall be a violation to this Title to utilize any property, which was not subject to a separate Site Development Permit, other than for residential or agricultural purposes in accordance with other provisions of this Title, after a Conditional Use Permit has been revoked or not renewed (either because of failure to apply for a new or renewed

Conditional Use Permit or because of denial), without obtaining a new Development Permit pursuant to this Chapter.

20.100.380 Privately Initiated Revocation of Permit or Approval

- A. In the event that a real property owner desires to have their property released from a final Permit or other approval previously granted and issued by the City, the property owner may apply for such release of Permit or other approval on a form provided by the Director.
- B. Each application for release of Permit or other approval shall be subject to the following requirements:
 - 1. For Permits or other approvals that have not been implemented in any manner and whose term of expiration has not yet elapsed, the Director may administratively accept and grant such release requests in writing.
 - 2. For Permits or other approvals that have been implemented in whole or in part, the Director may accept and consider such release requests and may grant a release request in writing only if the Director first determines that releasing the Permit or other approval would meet all of the following criteria:
 - a. Releasing the Permit or other approval would not result in any harm or other adverse impact upon the real property, persons located on the real property, persons or property in the area surrounding the real property or to the City; and
 - b. Releasing the Permit or other approval would not result in a situation that would constitute a violation of any applicable law.
- C. Nothing contained in this Section shall prevent or preclude the Director from determining that the protection, preservation or furtherance of the public interest, health, safety or welfare would be better served through the processing of an amendment or adjustment to the original Permit or other approval or a new Permit or other approval rather than granting a release of such Permit or other approval. The Director shall require an amendment or adjustment to a Permit or other approval or a new Permit or other approval for any release application that does not meet the criteria of Subsection 20.100.380.B.2 above.
- D. Any applicant for a release of Permit or other approval who is granted a release of the Permit or other approval shall thereafter use the real property released from the Permit or other approval only in a manner that conforms to the provisions of this Title as if no such Permit or other approval had been issued. Irrespective of prior Permits or other approvals issued, it shall be a violation of this Title to utilize any property for which a Permit or

other approval has been released for any purpose that requires a Permit or other approval under this Title without having first obtained the required Permit or other approval; provided, however, that the property may be utilized in a manner that would be allowed under the provisions of Section 20.100.370 as if the Permit or other approval had been revoked rather than released.

- E. When a Permit or other approval has been released pursuant to the provisions of this Section, the City shall file a Release Certificate with the County Recorder in the same manner as a Revocation Certificate.

20.100.390 Inactive Applications

- A. The Director of Planning shall have the authority to pursue a final decision on any Permit or other approval application on file with the Director for a period of at least six (6) months where there is inactivity on the application on the part of the applicant for at least six (6) consecutive months.
- B. Alternatively, if an applicant fails to process his or her application on file with the Director and such inactivity by the applicant on the application continues for a period of at least six (6) consecutive months and additional work would be required by the Director to continue to process the application, the Director shall have the authority to require the applicant to first pay additional fees to continue processing the application in order to account for work that was not paid for under the original application fee or in cases where the application fees paid by the applicant were at a different rate than those fees in effect at the time of reactivation of the application after a period of inactivity by the applicant.
- C. For purposes of this Section “inactivity” on an application means that the Director has requested from the applicant or has provided the applicant with notice of additional information or materials needed by the Director from the applicant to continue to process the application and the applicant has failed to adequately respond to that request or notice.

Part 3

Permit Conditions

20.100.400 Term

Development Permits shall automatically expire 24 months, unless otherwise provided in the Permit, from and after the date of issuance of the Development Permit if within such 24 month period the proposed use of the site or the construction of buildings has not commenced pursuant to and in accordance with the provision of the Development Permit, subject to the provisions of Section 20.100.500 below.

20.100.410 Conditions

- A. The Permit or approval, as issued, may be substantially different from the project proposed by the applicant.
- B. Certain conditions may be imposed by the Director, the Planning Commission or the City Council as conditions prior to release of Permit or approval. Such conditions are conditions precedent to the effectiveness of the Permit or approval. In such cases, the Director shall receive the acceptance as set forth in Section 20.100.290, but shall maintain custody of the Permit or Approval and no Certificate of Permit or Approval shall be recorded until the condition has been satisfied.

20.100.420 Failure to Install Public Improvements

It shall be a violation of this Title for any person who has signed the acceptance of a Permit or approval issued pursuant to this Chapter to fail to secure any public improvements required by the Permit or approval within the time period specified. If no time period is specified, the time period for completion of improvements shall be deemed to be one (1) year from the issuance of a building permit unless an extension has been granted in writing by the Director or, if no building permit is required, one (1) year from the issuance of the Permit or approval.

20.100.430 Construction Clean Up

It shall be a violation of this Title for any person responsible for construction including but not limited to the Permit holder and any contractor thereof to fail to keep the public right of way free from construction dirt and debris. All on-site construction debris shall be removed at least weekly.

20.100.435 Window Glazing

Unless otherwise indicated on an approved plan or in the approved permit, all first floor, ground floor windows for any commercial use shall consist of transparent glass.

20.100.440 Maintenance of Landscape

It shall be a violation of this Title for any property owner or other person in control of any lot to fail to maintain any landscaping required by a Permit or approval issued pursuant to this Chapter. Any vegetation, required by a Permit or approval, which is dead or dying shall be replaced within sixty (60) days.

20.100.450 Hours of Construction Within 500 Feet of a Residential Unit

- A. Unless otherwise expressly allowed in a Development Permit or other planning approval, no applicant or agent of an applicant shall suffer or allow any construction activity on a site located within 500 feet of a residential unit before 7:00 a.m. or after 7:00 p.m., Monday through Friday, or at any time on weekends.
- B. Without limiting the scope of Section 20.100.310, no applicant or agent of an applicant shall suffer or allow any construction activity on a site subject to a Development Permit or other planning approval located within 500 feet of a residential unit at any time when that activity is not allowed under the Development Permit or planning approval.
- C. This section is applicable whenever a Development Permit or other planning approval is required for construction activity.

20.100.460 On-Site Recycling

On-Site recycling of construction debris and/or materials shall only be allowed in conjunction with an approved Development Permit which sets forth the conditions applicable to such activity.

20.100.470 Storm Water Management - Projects Disturbing Less Than 1 Acre

- A. All development projects with an approved Development Permit shall conform with the City of San José National Pollutant Discharge Elimination System (NPDES) Storm Water Permit and shall include Best Management Practices (BMPs) as specified in the *Blueprint for a Clean Bay* to control the discharge of storm water pollutants, including sediments associated with construction activities.
- B. Prior to the issuance of a grading permit, the applicant may be required to submit an Erosion Control Plan to the City Project Engineer, Department of Public Works.
- C. The Erosion Control Plan may include BMPs as specified in The Association of Bay Area Government's Manual of Standards Erosion & Sediment Control Measures for reducing impacts on the City's storm drainage system from construction activities.

20.100.480 Storm Water Management - Projects Disturbing 1 Acre or More

- A. All development projects with an approved Development Permit that result in a land disturbance of one (1) acre or more shall, prior to the commencement of any clearing, grading or excavation, comply with the City of San José National Pollutant Discharge Elimination System (NPDES) General Construction Activities Permit as follows:
 - 1. The applicant shall develop, implement and maintain a Storm Water Pollution Prevention Plan (SWPPP) to control the discharge of storm water pollutants including sediments associated with construction activities.
 - 2. The applicant shall file a Notice of Intent (NOI) with the State Water Resources Control Board (SWRCB).
- B. Along with these documents, the applicant may also be required to prepare an Erosion Control Plan. The Erosion Control may include BMPs as specified in the California Storm Water Best Management Practice Handbook for reducing impacts on the City's storm drainage system from construction activities.
- C. Prior to the issuance of a grading permit, the applicant shall submit copies of the NOI and Erosion Control Plan (if required) to the City Project Engineer, Department of Public Works.
- D. The applicant shall maintain a copy of the most current SWPPP on site and shall provide a copy to any City representative or inspector on demand.
- E. The applicant shall implement and maintain all best management practices (BMPs) or control measures identified in the SWPPP and/ or Erosion Control Plan.
- F. Any proposed development of real property that will create, on or above ground through installation, construction, or replacement, one (1) gross acre or more of impervious surface shall be designed in conformance with City Council Policy No. 6-29, entitled "City Council Policy on Post Construction Urban Runoff Management," and the provisions of this Chapter.

20.100.490 Amendments

- A. Any Development Permit holder may, at any time, file an application form for a permit amendment with the Director. An amendment shall mean any addition, deletion, or modification of any Development Permit, provided that such amendment does not alter the general character, use, or intensity of the Development Permit to be amended.
- B. The procedures set forth in this Chapter for the processing of an application for a Development Permit shall equally apply to an application for amendment except as hereinafter expressly set forth. The review of the application for an amendment shall be

limited to consideration of those conditions or specifications proposed to be amended in the application.

Part 4 Adjustments

20.100.500 Adjustments

- A. The Director may, at the Director's sole discretion, approve an adjustment for the following:
1. An extension of the term of an approved Development Permit for a period of up to but not exceeding one (1) year; provided, however, that no more than two (2) such term extensions may be approved.
 2. Changes to an approved Development Permit but only for minor modification of architectural elements or landscape details, (including but not limited to minor storefront alterations, relocation of doors, equipment screening, minor landscape furniture and structures, benches, small trellises, and planters) which do not affect the use, intensity, general character, architectural style, circulation or other site function of the project.
 3. Signs which conform to Title 23, minor changes to approved sign programs, and sign programs that are a condition of a Development Permit.
 4. Additions, accessory buildings and minor structures such as trellises, patio covers, swimming pools and decks for one-family residences which were approved and are subject to an existing Planned Development Permit.
 5. Building Mounted Wireless Communications Antenna.
 6. Tract sales, model home sales, or leasing offices associated with an approved housing development.
 7. Temporary construction or storage yards in connection with the construction of houses or other buildings in an adjacent subdivision or lot or parcel.
 8. Solar Photovoltaic Electrical Power Generation Systems.
 9. The creation, on or above ground through installation, construction, or replacement, of less than one (1) gross acre of impervious surface.

10. The replacement, repaving, reconfiguration, or re-striping of parking spaces on existing surfaces.
 11. Building additions of less than five hundred (500) square feet in area to non-residential buildings greater than five thousand (5,000) square feet in area exclusive of the proposed addition.
- B. An application for an adjustment must be filed on the form provided by the Director on or before the date that is three (3) business days prior to the expiration of the Development Permit proposed for adjustment and accompanied by the fees as set forth in the Schedule of Fees adopted by resolution of the City Council.
 - C. The decision to grant, deny or condition an adjustment is an administrative determination and requires no hearing or notice. The action of the Director shall be final. If the Director denies an adjustment, nothing herein shall preclude the applicant from thereafter filing an application for a Development Permit.
 - D. Where property was developed prior to the requirement of a Site Development Permit, adjustments for projects as set forth in Section 20.100.610(A) may be approved without the necessity of the issuance of a full Site Development Permit.

Part 5

Site Development Permit

20.100.600 Purpose

- A. The purpose of this Part is to promote orderly development, to enhance the character, stability, integrity and appearance of neighborhoods and zoning districts, to maintain and protect the stability and integrity of land values, and to secure the general purposes of this Title and of the San Jose General Plan.
- B. In order to accomplish the purpose, it is necessary for the City to review and regulate the aesthetic and functional aspects of structures and sites and to require, as the City determines necessary, the aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.610 Site Development Permit Required

- A. A valid Site Development Permit, issued under this Part, is required prior to the issuance of any building permit or installation permit for the following activities:
 1. Erection, construction, enlargement, placement or installation of a building or structure on any site, except for one, one-family dwelling on a single lot or parcel

that would not be subject to Part 9 of Chapter 20.100 regarding requirements for a Single-Family House Permit; or

2. Erection, construction, enlargement, placement or installation of a one-family dwelling on a single lot or parcel as provided for in Section 20.100.1030(A)(4) regarding Single-Family House Permits; or
 3. Exterior alteration of a building or structure; or
 4. Use of a lot for storage purposes; or
 5. Installation of pavement on any portion of a lot; or
 6. Underground installation.
- B. No single Site Development Permit shall be issued for more than one site. However, the removal and relocation of a building from one parcel to another separate parcel located within the City requires a single application pertaining to both parcels pursuant to Section 20.100.650.
- C. The provisions of this Part shall not apply:
1. If a Permit is expressly not required by Section 20.100.1030 of this Title or a Permit is issued under other provisions of this Chapter unless procurement of a Site Development Permit is made an express condition of such Permit.
 2. If temporary structures or buildings are to be constructed on a lot situate in a CP, CN, CG Commercial Districts, or the Downtown Zoning Districts, the IP, LI or HI Industrial Districts, or an A Agricultural District and are intended to be and are used in connection with the sale of Christmas trees or Halloween pumpkins in accordance with this Title, and remain on the site only for the temporary period specified for such uses in this Title.
 3. If the underground installation is for the sole purpose of replacing an existing underground tank or tanks with a new tank or tanks whether or not total tank capacity on the site is increased.
 4. If skylights are installed on existing dwellings provided that the parcel has four (4) or fewer dwellings.
 5. If the re-roof is installed on an existing building or structure which is not designated a historic landmark and does not involve any alteration to the existing roof line, provided that the material used in the re-roof meets all of the following conditions:

- a. Is of the same material or is of a replacement material(s) that is superior to or is an upgrade from the existing material in terms of quality, aesthetics or safety features as determined by the Director of Planning; and
 - b. Meets or exceeds all applicable Fire and Building Code requirements.
- 6. Accessory structures on lots with one-family house, unless a Permit is otherwise required by this Title.

20.100.620 Action by Director

Upon finding of an application for a Site Development Permit complete pursuant to this Chapter, the Director shall review the application and shall set a public hearing on the application.

20.100.630 Findings

- A. The director, or the planning commission or City Council on appeal, as set forth in Table 20-260, shall grant the site development permit after review of project design, only if all of the following findings are made:
 - 1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 - 2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 - 3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.
 - 4. Landscaping, irrigation systems, walls and fences, features to conceal outdoor activities, exterior heating, ventilating, plumbing, utility and trash facilities are sufficient to maintain or upgrade the appearance of the neighborhood.
 - 5. Traffic access, pedestrian access and parking are adequate.
 - 6. The application is either consistent with the General Plan or counterbalancing considerations justify the inconsistency.
- B. The director, the planning commission, or the City Council, as set forth in Table 20-260, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.640 Amendment Findings

- A. Amendments to an approved Site Development Permit may only be approved if there is a finding by the Director, or Planning Commission on appeal, that the amendment does not negate any findings required by Section 20.100.630.
- B. Nothing in this Section shall preclude the Director, or the Planning Commission on appeal, from modifying, adding or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.650 Building Relocations

A Site Development Permit for the relocation of a building or part thereof onto a lot or parcel within the City of San Jose may be conditioned upon the applicant providing a performance bond, or some equivalent means satisfactory to the Director of guaranteeing that all work permitted and/or required by the Site Development Permit be completed in a timely manner. The Permit shall include time limitations for the commencement and completion of the relocation, and for the commencement and completion of any required architectural and other required improvements.

20.100.660 Appeal

The appeal of any action taken under this Part shall be governed by the procedures set forth in Section 20.100.220 - 20.100.280.

Part 6 Conditional Use Permits

20.100.700 Applicability

- A. The provisions of this Part apply to and govern the issuance of all Permits made subject to the provisions of this Part. All permits governed under this Part shall hereinafter be referred to as Conditional Use Permits, and shall be issued by the Planning Commission or by the City Council on appeal from a decision of the Planning Commission.
- B. Use Exception Permits, Legal Nonconforming Use Enlargement Permits, Permits for Parking Areas or Structures in Residence Districts, Development Permits in the T-M District, Quarry Permits, Cluster Permits and Low Density Cluster Permits issued under previously existing provisions of this Title shall be deemed to be Conditional Use Permits and shall be governed by this Part.

20.100.710 Action by Director

Upon finding an application for a Conditional Use Permit complete pursuant to this Chapter, the Director shall review the application and shall set a public hearing thereon before the Planning Commission.

20.100.720 Findings

- A. The Planning Commission, or the City Council, may issue a Conditional Use Permit only after finding that:
 - 1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
 - 2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
 - 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.
- B. The Planning Commission, or the City Council, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.730 Term

- A. A Conditional Use Permit may be time-conditioned, as appropriate, by the Planning Commission or City Council.
- B. If the use authorized by the Conditional Use Permit is discontinued for a period of 12 months, the Conditional Use Permit will expire and the Conditional Use Permit will no longer be in effect.

20.100.740 Renewal

- A. The permit holder may seek renewal of a time-conditioned Conditional Use Permit by filing a timely renewal application on the form provided by the Director.
- B. An application for renewal must be filed more than ninety (90) calendar days but less than one hundred eighty (180) calendar days prior to the expiration of the Conditional Use Permit.
- C. Once a renewal application has been filed in a timely manner, the expiration date of the Conditional Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.
- D. Any application filed after the renewal filing period has expired shall be deemed to be an application for a new Conditional Use Permit. If a new Conditional Use Permit is not issued prior to the expiration of the Conditional Use Permit, the continuation of any use which requires such permit shall be in violation of this Title.
- E. The procedures set forth in this Chapter for the processing of an application for a Conditional Use Permit shall equally apply to a renewal application except as hereinafter expressly set forth.

20.100.750 Renewal Findings

- A. Consideration of a renewal application shall be based on a rebuttable presumption that the use as permitted by the Conditional Use Permit meets the findings of this Part.
- B. The presumption shall be rebutted by any evidence of noncompliance with any condition of any prior permit or law or ordinance, or by evidence of any changed condition in the neighborhood, or by evidence that the continued use creates a nuisance as defined by this Title, or an impairment of public peace, health, safety, morals or welfare.
- C. Once the presumption has been rebutted, the Conditional Use Permit shall not be renewed unless the findings required by this Part have been made and the Planning Commission, or City Council, is satisfied that full compliance with all conditions, laws and ordinances is assured.

20.100.760 Amendment Findings

- A. An amendment may be granted by the Planning Commission, or the City Council, upon a finding that the amendment does not negate any findings required by this Part.
- B. Nothing in this Section shall preclude the Commission or the City Council from modifying, adding or deleting any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.770 Appeal

The appeal of any action taken under this Part shall be governed by the procedures set forth in Section 20.100.220 - 20.100.280.

Part 7 Special Use Permits

20.100.800 Applicability

The provisions of this Part apply to and govern the issuance of all Permits made subject to the provisions of this Part. All permits governed under this Part shall hereinafter be referred to as Special Use Permits, and shall be issued by the Director or by the Planning Commission on appeal from a decision of the Director.

20.100.810 Action By Director

Upon finding of an application for a Special Use Permit complete pursuant to this Chapter, the Director shall review the application and shall set a public hearing on the application.

20.100.820 Findings

- A. In addition to any findings required by any other Section of this Title, the Director, or Planning Commission, may issue a Special Use Permit only if all the following findings that:
 - 1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety, or general welfare; and
 - 2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate the use with existing and planned uses in the surrounding area; and
 - 3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.
- B. The Director, or Planning Commission, shall deny the application where the information submitted by the applicant and/or presented at the Public Hearing fails to satisfactorily substantiate such findings.

20.100.830 Term

- A. A Special Use Permit may be time-conditioned, as appropriate, by the Director or Planning or the Planning Commission.
- B. If the use authorized by the Special Use Permit is discontinued for a period of twelve (12) months, the Special Use Permit will expire and the Special Use Permit will no longer be in effect.

20.100.840 Renewal

- A. The permit holder may seek renewal of a time-conditioned Special Use Permit by filing a timely renewal application on the form provided by the Director.
- B. An application for renewal must be filed more than ninety (90) calendar days but less than one hundred eighty (180) calendar days prior to the expiration of the Special Use Permit.
- C. Once a renewal application has been filed in a timely manner, the expiration date of the Special Use Permit is automatically extended until either the issuance or denial of the application for renewal has become final.

- D. Any application filed after the renewal filing period has expired shall be deemed to be an application for a new Special Use Permit. If a new Special Use Permit is not issued prior to the expiration of the Special Use Permit, the continuation of any use which requires such permit shall be in violation of this Code.
- E. The procedures set forth in this Chapter for the processing of an application for a Special Use Permit shall equally apply to a renewal application except as hereinafter expressly set forth.

20.100.850 Renewal Findings

- A. Consideration of a renewal application shall be based on a rebuttable presumption that the use as permitted by the Special Use Permit meets the findings of this Part.
- B. The presumption shall be rebutted by any evidence of noncompliance with any condition of any prior permit or law or ordinance, or by evidence of any changed condition in the neighborhood, or by evidence that the continued use creates a nuisance as defined by this Title, or an impairment of public peace, health, safety, morals or welfare.
- C. Once the presumption has been rebutted, the Special Use Permit shall not be renewed unless the findings required by this Part have been made and the Director, or Planning Commission, is satisfied that full compliance with all conditions, laws and ordinances is assured.

20.100.860 Appeal

The appeal of any action taken under this Part shall be governed by the procedures set forth in Section 20.100.220 - 20.100.280.

Part 8 Planned Development Permits

20.100.900 Applicability

The provisions of this Part shall apply to and govern the issuance of Planned Development Permits, commonly referred to as “PD Permits” for planned developments in combined base and Planned Development Districts, hereinafter also referred to in this Part as “combined districts” or “Planned Development Zonings.” A Planned Development Permit is a use permit as well as a permit which addresses aesthetic and functional aspects of development. Any Planned Development Permit issued under this Part shall be subject to the general provisions of this Chapter related to Development Permits and the provisions of said Section shall control over any inconsistent provisions of this Part.

20.100.910 Planned Development Permit Required

Unless the base zone is being utilized:

- A. No building or structure shall be erected, constructed, enlarged, placed or installed or moved onto any site nor shall there be any exterior alteration of any structure which is in a planned development district, and no building permit or installation permit shall be issued for such work, except pursuant to and in accordance with a Planned Development Permit.
- B. No use shall be added, changed, modified, enlarged or altered on any site which is in a planned development district except pursuant to and in accordance with a Planned Development Permit.
- C. A Planned Development Permit may be issued for all or any part of the property situate in a Planned Development District.
- D. A Planned Development Permit or amendment to a Planned Development Permit may be issued for:
 - 1. The use of new dwelling units, which are not yet occupied for residential purposes, as model homes or sales offices in connection with the sale of dwelling units in a planned development district.
 - 2. The use of structures, such as mobilehomes, as sales offices in connection with the sale of dwelling units in a planned development district.
 - 3. The use of land in the Planned Development District for off-street parking or other uses incidental to the sales office or model home operation. Such use shall be limited to the duration of the sales office or model home operation.
- E. A Planned Development Permit is not required for building additions, exterior alterations, and accessory structures on parcels six thousand square feet or less which are used for single-family detached residential use if the additions, alterations, or structures:
 - 1. Meet the development regulations of the R-1-8 residence district; and
 - 2. The construction would not require the issuance of a Single Family House Permit, pursuant to Part 9 of this Chapter 20.100, if the property were not situated in a Planned Development Zoning District; and
 - 3. The addition, alterations or accessory structures otherwise conform to the requirements of the Planned Development Zoning District.

- F. A Planned Development Permit is not required for mechanical equipment in Planned Development Districts consisting solely of detached, one family dwelling uses. The setbacks for all mechanical equipment in these Planned Development Districts must meet the setback requirements set forth in the particular Planned Development District. If no setback standards have been set forth for a particular Planned Development District, the setbacks requirements shall be those standards set forth in Section 20.60.080.
- G. A valid Planned Development Permit, issued under this Part, is required prior to the issuance of any building permit or installation permit for the creation, replacement, alteration or reconfiguration of impervious surface on any portion of a site not used solely for one (1) single family residence within a Planned Development District.

20.100.920 No Right to Issuance

Pursuant to and in accordance with the provisions of this Part, the Director, or the Planning Commission, may issue Planned Development Permits. Under no circumstances shall any applicant have the right to have a Planned Development Permit issued for any property in a Planned Development District and nothing contained in this Part shall, in any event or under any circumstances, be deemed or construed to confer on any applicant the right to have a Planned Development Permit issued for any property.

20.100.930 Action By Director

Upon finding of an application for a Planned Development Permit complete pursuant to this Chapter, the Director shall review the application and shall set a public hearing on the application.

20.100.940 Findings

- A. The Director or the Planning Commission on appeal, may issue a Planned Development Permit only if all of the following findings are made:
 - 1. The Planned Development Permit, as issued, furthers the policies of the General Plan;
 - 2. The Planned Development Permit, as issued, conforms in all respects to the Planned Development zoning of the property;
 - 3. The interrelationship between the orientation, location, mass and scale of building volumes, and elevations of proposed buildings, structures and other uses on-site are appropriate, compatible and aesthetically harmonious;
 - 4. The environmental impacts of the project, including, but not limited to noise, vibration, dust, drainage, erosion, storm water run off, and odor which, even if

insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.

- B. The Director or the Planning Commission on appeal shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.950 Amendment Findings

- A. Amendments may be granted at the discretion of the Director, or Planning Commission on appeal, upon a finding that the amendment does not negate any findings required by Section 20.100.940.
- B. Nothing in this Section shall preclude the Director or Planning Commission from making reasonable modifications, additions or deletions to any condition in order to protect the public peace, health, safety, morals or welfare.

20.100.960 Public Open Space - City Council Approval

The Director shall not issue a Planned Development Permit providing for public open space, and no Planned Development Permit issued by the Director which provides for public open space shall be valid, unless before the issuance of such Permit, the City Council shall have approved the provisions of such public open space and the size, shape, location, and dimensions thereof. As used in this Part, “public open space” means public park or playground land which shall be owned in fee by the City of San Jose.

The City’s title to and ownership of public open space shall be vested and complete as soon as such public open space shall have been conveyed to the City pursuant to the provisions of any Planned Development Permit, and immediately upon such conveyance the City shall have exclusive right to the possession and use of such public open space for public park or playground purposes, including, without limiting the generality of the foregoing, the right to construct buildings or structures thereon for such purposes; and nothing contained in this Part or in any other section of this Title, shall be construed to defeat the title or ownership of City to any public open space which shall have been conveyed to City, nor to deny City such right of possession and use.

20.100.970 Conditions in Planned Development Permits Involving Building Relocations

A Planned Development Permit for the relocation of a building or part thereof may be conditioned upon the applicant providing a performance bond, or some equivalent satisfactory to the Director of Planning, ensuring that all work permitted and/or required by the Planned Development Permit be completed in a timely manner. The Permit shall include time limitations on the commencement and completion of the relocation, and on the commencement and completion of any required architectural and other required improvements.

20.100.980 Appeal

The appeal of any action taken under this Part shall be governed by the procedures set forth in Section 20.100.220 - 20.100.280.

Part 9 Single Family House Permit

20.100.1000 Purpose

- A. The purpose of this Part is to promote orderly development, to enhance the character, stability, integrity and appearance of single family neighborhoods and zoning districts, to maintain and protect the stability and integrity of land values, and to secure the general purposes of this Title and the San Jose General Plan.
- B. In order to accomplish the purpose, it is necessary for the City to review and regulate the aesthetic and functional aspects of single family houses and sites and to require, as the City determines necessary, aesthetic and functional improvements to the site and to any structures thereon and to require off-site improvements.

20.100.1010 Single Family House Defined

For purposes of this Part, “single family home” means a structure designed and/or used as a R-3 occupancy as defined in the Building Code and otherwise designated a one-family dwelling elsewhere in this Code.

20.100.1020 Floor Area Ratio Defined

For purposes of this Part, “floor area ratio” means the gross floor area of the single family house divided by the total lot area. Garages, basements and accessory structures are not included in the gross floor area for the purposes of this Part.

- 1. The floor area includes the sum of all the floors in the main structure measured to the outside surface of the exterior walls. It includes the stairwells at all floors and all areas that are greater than fifty percent (50%) enclosed with walls and covered.

20.100.1030 Single Family House Permit Required

- A. No Single Family House Permit is required if all of the following applicable criteria and conditions are met:

1. The issuance of building permits will result in a single family house in any Residence District with a Floor Area Ratio equal to or less than forty-five hundredths (.45); and
 - a. The site is not a Historic Resource listed on the Historic Resources Inventory pursuant to Chapter 13.48 of Title 13 of this Code.
2. The site is located in a Planned Development Zoning District. All construction in a Planned Development Zoning District shall be governed by the provisions of Part 8 of this Chapter that may require issuance of a Planned Development Permit for the review of any single-family house construction, addition, or alteration.
3. The issuance of buildings permits is for exterior alterations or maintenance of an existing single family house which alterations or maintenance:
 - a. Would not expand the exterior footprint or increase the overall square footage of the existing single family house; and
 - b. Meet the development regulations of the R-1-8 residence district; and
 - c. If the house is listed as a Historic Resource on the City's Historic Resources Inventory, would solely repair pieces of existing features on a Single Family House that is a Historic Resource, but is not a City Landmark or located in a City Landmark Historic District, with like materials of the same size, shape, pattern and substance and in a manner that fully conforms to approved Design Guidelines; and
 - d. Meet all of the criteria set forth in Subsection 20.100.1030.A.1 above.
4. The single family homes are approved with a single Site Development Permit issued pursuant to Part 5 of this Chapter. A Site Development Permit may be approved if the site is located:
 - a. In an R-1 Residential Zoning District; and
 - b. Includes construction of more than five (5) new single family homes.
5. The issuance of building permits will result in a single family house in any Residence District with a Floor Area Ratio equal to or less than forty-five hundredths (.45) and a height greater than thirty (30) feet and/or two (2) stories, provided that all of the following additional criteria or conditions are met:
 - a. The proposed house will be located on a site within a flood zone with a one-hundred-year flood depth that requires elevation of the first finished

floor of the proposed house to a height of at least five (5) feet above grade;
and

- b. The height of the proposed house will be equal to or less than thirty (30) feet plus the required one-hundred-year-flood depth elevation or the maximum height of the Residence District in which the proposed house will be located, whichever height is less; and
- c. The proposed house will meet all of the criteria set forth in Subsection 20.100.1030.A.1 above.

B. If the site is a Historic Resource listed on the Historic Resources Inventory of the City pursuant to Chapter 13.48 of Title 13 of this Code and the site is a City Landmark house and/or a house located in a City Landmark Historic District, then all work performed on a City Landmark or in a City Landmark Historic District shall be governed by the provisions of Chapter 13.48 of Part 3 of Title 13 of this Code that require issuance of a Historic Preservation Permit. No Single Family House Permit shall approve work performed on a City Landmark house or a house located in a City Landmark Historic District.

C. Unless specifically exempted by Subsection A above, a valid Single Family House Permit issued under this Part is required prior to the issuance of any building permit for the following activities:

- 1. Erection, construction, enlargement, placement or installation of a single family house on any site; or
- 2. Exterior alteration of a single family home.

20.100.1040 Additional Development Requiring a Single Family House Permit

A. If the issuance of building permits will result in a Single Family House that is a Historic Resource, but is not a City Landmark or located in a City Landmark Historic District, with a Floor Area Ratio equal to or less than forty-five hundredths (.45) and all of the following applicable criteria are met, then issuance of a historic Single Family House Permit is subject to the Administrative Procedures set forth in this Part.

- 1. The issuance of building permits is for minor modifications involving incidental enlargement, reconstruction, replacement, repair, remodeling, rehabilitation, restoration and/or exterior alteration of a historic resource, fully conforms to approved Design Guidelines, and does not affect the historic significance or character, use, intensity, architectural style, circulation or other site function of the property.

2. Any application which in the determination of the Director of Planning would not meet the requirements and criteria of Section 20.100.1040.A.1 above shall be subject to the Director Public Hearing Procedures set forth in this part.
- B. If the issuance of building permits will result in a Single Family House with a Floor Area Ratio greater than forty-five hundredths (.45) but equal to or less than sixty-five hundredths (.65), and all of the following applicable criteria are met, issuance of a Single Family House Permit is subject to the Administrative Procedures set forth in this Part.
1. Building Permits do not authorize removal of more than fifty percent (50%) of the exterior walls of an existing house;
 2. Building Permits are for an addition to an existing house and the addition is for either one or both of the following:
 - a. A single story and ground floor addition; and/or
 - b. A second story addition which results in a second story which is no larger than sixty percent (60%) of existing first floor area and which is set back ten (10) feet from the required front setback;
 3. Building permits do not authorize the enclosure or net loss of ten percent (10%) or more of an existing porch;
 4. Building Permits authorize an attached garage only if the houses on each side of the subject lot have existing attached garages;
 5. Building Permits require the roofline, materials, trim and decoration details of the new construction to be the same as that on the existing house;
 6. Building Permits authorize alterations to a Single Family House that is a Historic Resource, but is not a City Landmark or located in a City Landmark Historic District, which alterations fully conform to or exceed approved Design Guidelines.
- C. Subject to the provisions of Section 20.100.1030, if the issuance of building permits will result in a single family house with a Floor Area Ratio greater than forty-five hundredths (.45) and all the applicable criteria of Subsection 20.100.1040.A are not met, issuance of a Single Family House Permit shall be subject to the Director Public Hearing Procedures set forth in this Part.

20.100.1050 Houses Greater Than Thirty Feet High and/or Two Stories Tall

Subject to the provisions of Subsection 20.100.1030.A.5, if the issuance of building permits will authorize new construction greater than thirty (30) feet high and/or two (2) stories tall, the Single Family House Permit is subject to the Director Public Hearing Procedures set forth in this Part.

20.100.1060 Administrative Procedures

For any application for a Single Family House Permit which is subject to the Administrative Approval Procedures:

1. The Director may, in the Director's sole discretion, approve an Administrative level Single Family House Permit.
2. The decision is an administrative determination and requires no hearing or notice.
3. The action of the Director is final. If the application is denied, nothing in this section shall preclude the applicant from filing an application for a Director Approval pursuant to this Part.

20.100.1070 Director Public Hearing Procedures

For any application for a Single Family House Permit which is subject to the Director Public Hearing Procedures:

1. Upon finding an application for a Single Family House Permit complete pursuant to Part 1 of this Chapter, the Director shall review the application and shall set a Public Hearing on the application.
2. The Director shall cause notice of the time and place, at which all persons may appear before the Director and be heard, to be given in accordance with Section 20.100.190.
3. The Director, or Planning Commission on appeal, may approve, conditionally approve, or deny the application only upon making the findings set forth in this Part.

20.100.1080 Appeal of Director Approval

Any action taken by the Director under this Part may be appealed to the Planning Commission by filing with the Director a written notice of appeal within ten (10) calendar days after a copy of the decision of the Director has been placed in the mail to the applicant. The applicant or any property owner or tenant of property within three hundred (300) feet of the subject site may file such a notice of appeal. When such notice has been accepted by the Director for filing:

1. The Director shall set a date for the public hearing before the Commission.
2. The Director shall cause notice of the time and place, at which all persons may appear before the Director and be heard, to be given in accordance with Section 20.100.190.
3. The decision of the Commission shall be mailed to the applicant, at the address shown on the application, and to all persons eligible to appeal who have requested such notice pursuant to Section 20.100.200.

20.100.1090 Findings

- A. The Director, or Planning Commission on appeal, shall grant the Single Family House Permit only after making the following applicable findings:
 1. The interrelationship between the orientation, location, and elevations of proposed buildings and structures and other uses on-site are mutually compatible and aesthetically harmonious.
 2. The orientation, location and elevation of the proposed buildings and structures and other uses on the site are compatible with and are aesthetically harmonious with adjacent development or the character of the neighborhood.
 3. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative effect on adjacent property or properties.
- B. The Director, or Planning Commission on appeal, shall deny the application where the information submitted by the applicant and/or presented at the public hearing fails to satisfactorily substantiate such findings.

20.100.1100 Exception – Previously Approved Special Use Permit

- A. Notwithstanding any contrary provision of this Part, no Single Family House Permit shall be required for the construction of a single family house if:
 1. A Special Use Permit for demolition of an existing single family house was approved prior to December 31, 2000; and
 2. Plans for the replacement single family house were submitted as part of the Special Use Permit Application; and
 3. Building permits are obtained prior to December 31, 2000.

- B. Construction of the single family house shall be in conformance with the plans submitted as part of the Special Use Permit Application.
- C. If an appeal of a Special Use Permit is heard after the effective date of this Part, the plans for the replacement dwelling may be evaluated and considered as part of the appeal. The Planning Commission on appeal shall approve the plans for the replacement single family home.

20.100.1110 Exception – Approved Final Maps

Notwithstanding any contrary provision of this Part, no Single Family House Permit shall be required for the construction of a single family house(s) if:

1. The single family house is situated on a lot created by a final map for twenty five (25) or more lots in a R-1 Residential Zoning District which was approved after January 1, 1999, and prior to the effective date of this Part; and
2. Building permits for the single family house(s) are issued prior to December 31, 2000.

Part 10 Administrative Permit

20.100.1200 Applicability

The provisions of this Part apply to and govern the issuance of all Permits made subject to the provisions of this Part. All permits governed under this Part shall hereinafter be referred to as Administrative Permits, and shall be issued by the Director.

20.100.1210 Application - Utility Structure

In addition to the requirements of Section 20.100.1110, an application which includes a Utility Structure shall be signed by the Utility Provider. The Utility Provider shall submit the following with the application:

1. Signed consent, on a form provided by the Director, to the placement of the Utility Structure by the owner of the residential property for which the application is submitted and must notify all owners of residential property abutting that property; and
2. Evidence of the private, public utility or public service easement; and
3. A comprehensive network plan showing the locations of each Utility Structure planned by the Provider.

20.100.1220 Approval

Any Administrative Permit for a Utility Structure approved pursuant to this Part shall contain the applicable conditions set forth in Part 19 of Chapter 20.80.

20.100.1230 Notification of Denial

- A. Whenever an Administrative Permit is denied hereunder, the Director shall notify the applicant in writing of the grounds upon which such denial is based.
- B. The applicant may seek a Special Use Permit if an Administrative Permit has been denied.

20.100.1240 Display of Permit

- A. A copy of the Permit issued hereunder shall be conspicuously posted on a window, door, or other appropriate location of the business premises in a manner visible to the public at all times. The Permit shall notify the public that any complaints with regard to the use authorized by such Permit may be reported to the Director.
- B. Notwithstanding subsection A above, a Permit for a Utility Structure does not need to be displayed. However, the Permit Number, or other mutually agreeable identification system, shall be permanently displayed on a readily visible location on the structure.

20.100.1250 Term

- A. A Permit issued pursuant to this Part shall be initially issued for a period of one (1) year. Whenever a Permit is reissued, it may be granted for a period of up to two (2) years. The Applicant shall submit an application for a new Permit term fifteen (15) days prior to the expiration of the term of any Permit issued hereunder.
- B. Notwithstanding subsection A above, a Permit for a Utility Structure shall have no time limit.

20.100.1260 Nontransferability

- A. A Permit issued hereunder may not be transferred or reassigned.
- B. Notwithstanding subsection A above, a Permit for a Utility Structure may be transferred.

Part 11

Development Variances and Development Exceptions

20.100.1300 General

Pursuant to and in accordance with the provisions hereinafter set forth in this Part, the Director or the Planning Commission on appeal may, but shall not under any circumstances be required to, grant the following variances and exceptions:

1. Development Variance
 - a. Variances hereinafter referred to as "Development Variances," to the height, number of stories, frontage, setback, coverage, density, area, off-street parking, fencing, loading and landscaping requirements and regulations of this Title.
2. Development Exception
 - a. Certain exceptions, hereinafter referred to as "Development Exceptions" as follows:
 1. Exceptions permitting an incursion by buildings or structures of up to, but not more than, five feet into the rear setback area prescribed by this Title, provided, however, that no exception granted hereunder shall permit the vertical projection of any building or structure to be closer than fifteen feet, measured horizontally, to the rear property line.
 2. Exceptions permitting Church steeples, Church bell towers, Church roofs, wireless communication antenna and associated structures which exceed in height the height limitations prescribed this Title; provided, however, that the following exception from these provisions shall apply:
 - i. Wireless Communication Antennae that meet the height limitations of Section 20.80.1900 or 20.80.1910, as applicable, shall not be subject to the Development Exception requirements set forth in this Part.
 3. Exceptions from the area requirements for a lot or parcel in any Residential District having an area of less than three thousand square feet, provided such area is not less than the area of such lot or parcel on March 1, 1977 (or, if the lot was created after March 1, 1977, then as approved by the City) and that no such exception

shall permit any diminution in such area and provided further that if such lot or parcel has or is to have a structure or structures thereon, no such exception shall be issued for such lot or parcel unless all such structures are dwelling structures or structures accessory thereto, and all such structures comply with the height and setback requirements of this Title. An exception permitted by this Subsection may be issued at the same time as an exception provided for in Subsection 1 above.

20.100.1310 Action By Director

Upon finding of an application complete pursuant to this Chapter, the Director shall review the application and shall set a public hearing on the application.

20.100.1320 Findings

A. Development Variance

Neither the Director, nor the Planning Commission on appeal, shall grant a Development Variance, except for fencing, unless it is found that:

1. Because of special circumstances uniquely applicable to the subject property, including (but not limited to) size, shape, topography, location, or surroundings, but expressly excluding any consideration of:
 - a. the personal circumstances of the petitioner, or
 - b. any changes in the size or shape of the subject property made or occurring while the subject property was situate in the zoning district in which it is situate at the time of the filing of the petition, regardless of whether such changes were caused by the petitioner or his predecessors in interest, the strict application of the requirements and regulations prescribed in this Title and referred to in Subdivision A of Section 20.100.1300, deprives such property of privileges enjoyed by other property in the vicinity of and in same zoning district as the subject property, and
2. The variance, subject to such conditions as may be imposed thereon, will not impair:
 - a. the utility or value of adjacent property or the general welfare of the neighborhood, and
 - b. the integrity and character of the zoning district in which the subject property is situate.

B. Fence Variance

Neither the Director, nor the Planning Commission on appeal, shall grant a fence variance unless it is found that:

1. Because of special circumstances uniquely applicable to the subject property, the strict application of the requirements and regulations prescribed in Part 6 of Chapter 20.30 of the Title deprives such property of privileges enjoyed by other property in the vicinity of and in the same zoning district as the subject property. The special circumstances to be considered include, but are not limited to, size, shape, topography, location or surroundings of the subject property.
 - a. In the case of a corner lot, special circumstances to be considered under the Subsection above include the fact that the legal front lot line of the corner lot does not serve as the actual front entry into the residence.
 - b. The fence variance for a side corner lot shall not be granted unless it is found that the fence variance will not result in an adverse impact upon the neighboring properties any differently than if the side corner lot line were the actual front lot line.
2. The fence variance, subject to such conditions as may be imposed thereon,
 - a. Will not substantially impair the utility or value of adjacent property or the general welfare of the neighborhood; and
 - b. Will not substantially impair the integrity and character of the zoning district in which the subject property is situated.

C. Development Exception

Neither the Director, nor the Planning Commission on appeal, shall grant a Development Exception unless it is found that the exception, subject to such conditions as may be imposed thereon, will not impair:

1. the utility or value of adjacent property or the general welfare of the neighborhood, and
2. the integrity and character of the zoning district in which the subject property is situate.

20.100.1330 Conditions

Any Variance or Exception Permit issued pursuant to this Part, may include any conditions reasonably necessary to secure the general purposes of this Title. Without limiting the generality of

the preceding sentence, such conditions may include time limitations on the commencement of the use of the variance or exception, architectural and site improvement approval, specifications on materials to be used, street right-of-way dedications, street improvements, and revocation for failure to comply with conditions.

Part 12 Sidewalk Cafe

20.100.1400 Purpose

The sidewalk cafe regulations as established in this Part are intended to encourage sidewalk cafes in the City of San Jose, to provide for the creation of a more urban pedestrian environment, and to promote and protect the public health, safety, and general welfare. These general goals include among others the following specific purposes:

1. To encourage and promote sidewalk cafes as visual amenities which in turn intensify pedestrian activity and make the street life more attractive.
2. To preserve and enhance the character of the City of San Jose.
3. To ensure adequate space for pedestrians on the sidewalk adjacent to sidewalk cafes.

20.100.1410 Definitions

The definitions set forth in this Part shall govern the application and interpretation of this Part.

1. "Adjacent Property" shall mean only that portion of the public right-of-way which abuts the frontage of the Permittee's Premises.
2. "Neighboring Property" shall mean a parcel of land which is within three hundred (300) feet of the subject property.
3. "Premises" shall mean the Public Eating Establishment, as defined in 20.200.940 of this Code, and outdoor sidewalk cafe as authorized by this Chapter.
4. "Sidewalk" shall mean that part of the public right-of-way dedicated to pedestrian circulation.

20.100.1420 Permit Required

No owner or operator of a business establishment shall occupy any portion of a public sidewalk or mall with umbrellas, tables, and chairs or portable appurtenances for the convenience of customers unless such owner or operator has obtained a Permit approved by the Director.

20.100.1430 Application

- A. The provisions of Section 20.100.110 subsection B shall not apply to applications for a Sidewalk Cafe Permit.
- B. The application shall contain the following information and any additional information that the Director may reasonably require:
 - 1. The name of the Applicant; and
 - 2. The name and address of the establishment; and
 - 3. The hours that the area is to be occupied as a sidewalk cafe; and
 - 4. A plan drawn to scale showing the locations, the number, and the arrangement of umbrellas, tables, chairs, and other portable appurtenances; and
 - 5. The width of the sidewalk where the cafe is to be located.

20.100.1440 Review of Application

The Director shall consider the following factors in the review of the Permit application:

- 1. The convenience and safety of pedestrians, property owners, occupants, customers, residents, or tenants of offices, stores, shops or dwellings in the vicinity; and
- 2. Dimensions of the public sidewalk or mall areas; and
- 3. Location of nearby fire hydrants, utility poles, sign poles, Light Rail tracks and stations, street trees; and
- 4. Other factors that may be relevant to the particular location.

20.100.1450 Findings

The Director may issue a Permit only upon finding that issuance of the Permit:

- 1. Would not create a nuisance; and
- 2. Would preserve and enhance the character of the surrounding area; and
- 3. Adequately protects the convenience and safety of pedestrians, property owners, occupants, customers, residents or tenants of offices, stores, shops or dwellings in the vicinity of the project; and

4. Would not result in any significant adverse land use impacts.
5. Complies with the Conditions set forth in this Part.

20.100.1460 Amendment of Existing Permits for Service of Alcohol

- A. Existing Permits may be amended to authorized the service of alcoholic beverages.
- B. The application process for a new Permit set forth in this Part shall be followed, however, the findings previously made pursuant to this Part shall not be reconsidered.

20.100.1470 Special Findings - Service of Alcohol

The service of alcoholic beverages shall be authorized by Director only if the following findings are made:

1. The Applicant is licensed as a Bona Fide Public Eating Place by the California State Department of Alcoholic Beverage Control; and
2. The Applicant is in compliance with all conditions and restrictions of his or her state liquor license; and
3. The business has not been issued a Dance hall Permit, as defined in Chapter 6.58 of this Code, or a Public Entertainment Permit, as defined in Chapter 6.60 of this Code; and
4. The Applicant is in full compliance with all provisions of this Code; and
5. Issuance of the Permit would not result in any significant adverse land use impacts.

20.100.1480 Conditions and Restrictions

The issuance of a Permit shall be subject to the following conditions and restrictions, together with such other conditions as may be deemed necessary in order to secure the general purposes of this Title. The Director may, in issuing a Permit, increase the restrictiveness of any or all of the following conditions and restrictions:

1. Umbrellas, tables, chairs, and other portable appurtenances shall be confined to the area shown on the approved Permit plan set;
2. Equipment for the service of customers, including but not limited to trays or carts, eating or drinking utensils, linens, and cooking appliances shall not be placed or maintained on any portion of the sidewalk or mall area unless the sidewalk cafe is adequately separated from pedestrian traffic;

3. All umbrellas, tables, chairs and other portable appurtenances shall be removed from the area at the end of each business day at the hour specified in the Permit;
4. At least one (1) covered outdoor trash container shall be provided in the sidewalk cafe area during the hours of operation and shall be maintained in a clean and sanitary condition.
5. The Permittee shall maintain the area in a clean and sanitary condition at all times;
6. The Permittee shall keep that portion of the sidewalk area not permitted to be occupied by umbrellas, tables, chairs, and other portable appurtenances free of obstructions at all times;
7. The hours of operation of a sidewalk cafe shall be limited to the hours of operation of the associated establishment;
8. No amplified sound shall be used within a sidewalk cafe. At no time shall any music originating from any part of the Premises create a nuisance;
9. Dancing shall not be permitted or allowed in the sidewalk cafe;
10. The Permittee must at all times comply with all federal, state and local laws regarding the sale, service and consumption of alcohol and the operation of the Premises;
11. The Applicant shall submit to the City's Risk Manager a signed agreement to defend, indemnify, save, and hold harmless the City and all of its officers, agents, or employees from any liability for damages resulting from any and all operations under a permit granted pursuant to this Chapter;
12. Each Permittee shall, at his or her own cost and expense, obtain and maintain in full force and effect all of the necessary insurance coverage for the full term of the permit or any renewal thereof. The level of coverage shall be in the amount to be determined by the City's Risk Manager;
13. No Permit signed under this Chapter may be transferred or assigned;
14. The sidewalk or mall area shall not be painted, landscaped or altered in any way without prior written approval of the Director;
15. The Permit does not constitute a deed or grant of an easement by the City and is revocable at any time.

20.100.1490 Special Conditions - Service of Alcohol

- A. The Applicant must remain in full compliance with all provisions of this Code; and
- B. No person shall serve alcoholic beverages at a sidewalk cafe unless and until both the Permit and state liquor license specifically authorizes the service of alcohol; and
- C. Alcoholic beverages shall be consumed only on the Permittee's Premises. The Permittee shall not allow patrons to leave the confines of the Premises with any alcoholic beverage and shall not allow patrons to give or sell alcoholic beverages to any person outside the Premises; and
- D. The sidewalk cafe shall maintain full food service and shall operate as a bona fide eating place at all times that it is in operation. No sidewalk cafe may function as a bar.

CHAPTER 20.110

OTHER PROCEDURES

Part 1

Easements

20.110.010 General Provisions

The method of creation of easements authorized by this Part shall be in addition to any other method allowed by law.

20.110.020 Creation of Easement

An easement may be created pursuant to this Part by a recorded covenant of easement made by an owner of real property to the City, in accordance with the procedures set forth in this Part.

20.110.030 Purposes of Easement

An easement created pursuant to this Part may be for one or more of the following purposes:

- A. Parking.
- B. Ingress and egress.
- C. Emergency access.
- D. Light and air access.
- E. Landscaping.
- F. Open space.
- G. Access to and/or operation and maintenance of a storm water treatment measure.

20.110.040 Common Ownership

At the time of recording of the covenant of easement, all the real property benefited or burdened thereunder shall be in common ownership.

20.110.050 Contents of Covenant

A covenant of easement recorded pursuant to this Part shall be executed by the owner of the burdened property and shall include:

1. A legal description of the real property to be subject to the easement; and
2. A legal description of the real property to be benefited by the easement; and
3. Identification of the City approval, permit or designation which was granted in reliance upon recordation of the covenant, or for which recordation of the covenant is or was a requirement; and
4. A description of the purpose(s) of the easement.

20.110.060 Acceptance by Director

The Director may accept an easement as described in this Part on behalf of the City when such an easement is required as a condition of a land use approval, permit or designation pursuant to this Title.

20.110.070 Recordation

The covenant of easement shall be recorded in the County Recorder's office. A copy of the recorded document shall be provided to the Director.

20.110.080 When Effective

- A. The covenant of easement shall be effective when recorded and shall act as an easement pursuant to Chapter 3 (commencing with Section 801) of Title 2, Part 2, Division 2 of the Civil Code, except that it shall not merge into any other interest in the real property.
- B. From and after the time of its recordation, the covenant shall impart notice thereof to all persons to the extent afforded by the recording laws of this State.

20.110.090 Enforceability

Upon recordation, the burdens of the covenant shall be binding upon, and the benefits shall inure to, all successors in interest to the affected real property. Nothing in this Part shall create in any person other than the City and the owner of real property benefited or burdened by the covenant standing to enforce or to challenge the covenant or any amendment thereto or release therefrom.

20.110.100 Release of Covenant

Pursuant to and in accordance with the provisions hereinafter set forth in this Part, the Planning Commission and the City Council on appeal from a decision of the Planning Commission may approve and authorize recordation of a release of a covenant of easement.

20.110.110 Petition for Release

A petition for release of a covenant of easement may be made by any person whether or not that person has Title to the real property, and shall be filed in writing with the Director of Planning on a form furnished by the Director. The form of the petition and the information required to be set forth in them shall be prescribed by the Director. The Director shall not accept any such petition for filing unless:

1. All information and data is set forth and shown as required by the form;
2. The petition is verified by the party making the petition; and
3. The applicable filing fee has been paid.

20.110.120 Fees

The fee for filing a petition for release of a covenant of easement pursuant to this Part shall be as set forth in the Schedule of Fees established by resolution of the Council.

20.110.130 Hearing by Planning Commission

- A. Upon filing of such petition, payment of filing fees, and acceptance of such petition as complete by the Director, the Director shall, set a date for the public hearing by the Planning Commission. The date of hearing shall be not less than twenty nor more than sixty days after the date the application was accepted as complete by the Director. Notice shall be provided in accordance with Section 20.100.190.
- B. The Director shall provide a report and recommendation to the Commission. In addition thereto, the Director shall file with the Commission at its hearing all papers, documents, and exhibits which are part of the file. Within a reasonable time after the Commission has concluded its hearing, it shall, by resolution, set forth its findings and decision on the matter. The Commission may decide to grant the petition, conditionally grant the petition or deny the petition.
- C. The decision of the Commission shall be mailed to all persons entitled to notice under Section 20.100.190.
- D. The decision of the Commission shall become final on the tenth day after the copy of the written decision of the Commission has been placed in the mail to the applicant; provided,

however, that if a written notice of appeal is accepted for filing by the Director as provided in Section 20.110.140, within the ten-day period, the decision of the Commission shall not be final, and it shall be of no force or effect.

20.110.140 Appeal to City Council

Any action taken by the Planning Commission under this Part may be appealed to the City Council by filing with the Director a written notice of appeal within ten (10) days after a copy of the decision of the Planning Commission has been mailed, as provided in Section 20.110.130. The applicant, or any person, may file such a notice of appeal. The notice of appeal shall be filed with the Director on a form furnished by the Director, and the information and data required to be set forth in such notice shall be as prescribed by the Director. When such notice has been accepted by the Director for filing:

1. The Director shall, within ten days, file with the Clerk of the City Council a copy of the application and the notice of appeal.
2. The Council shall hold at least one public hearing on the matter. The hearing of the Council shall be de novo. The City Clerk shall set the date of the first public hearing by the Council, which date shall not be less than ten nor more than sixty days after the date on which the copy of the application and the notice of appeal were filed with the City Clerk. Within a reasonable time after the Council has concluded its hearing, it shall, by resolution, set forth its findings and decision on the matter.
3. The decision of the Council shall be final. The City Clerk shall mail a certified copy of the decision of the Council to the applicant and the appellant at the addresses shown for such purpose on the application and notice of appeal.

20.110.150 Findings

The Planning Commission or the City Council, on appeal, may grant the petition for release of the covenant of easement only upon a finding that the restriction of the property is no longer necessary to achieve the land use goals of the City.

20.110.160 Release to be Recorded

Within fifteen days after the action of the Planning Commission or the City Council in granting a petition for release has become final, the Director shall cause the release to be recorded in the office of the Recorder for the County of Santa Clara.

Part 2

Williamson Act Contracts – Cancellation

20.110.200 Applicability

The provisions of this Part apply to and govern the cancellation and partial cancellation of all Williamson Act contracts entered into by the Council.

20.110.210 Petitions for cancellation; fees

- A. A landowner may file with the Director a petition for cancellation of any Williamson Act contract or any portion of a Williamson Act contract pursuant to Government Code sections 51282 et. seq.
- B. The petition for cancellation of any contract or portion of a contract shall include all of the information required by Sections 51280 through 51287 of the Government Code, as amended, and shall be accompanied by payment of any fees required to recover the reasonable cost of services provided by the City relating to the petition for cancellation.

20.110.220 Grant of authority

- A. The Council hereby authorizes the Director to consider and administratively approve or disapprove of landowner petitions for Williamson Act contract cancellation pursuant to and in accordance with Government Code sections 51280 through 51287 with the exception of those petition-related items listed in Subsection B herein. The Council expressly authorizes the Director in place of the Council to make all necessary determinations and perform all necessary acts to comply with the requirements for Williamson Act contract cancellation mandated by Government Code sections 51280 through 51287. In order to effect said Council authorization, the Director shall perform all of the duties of the “Council” under, and in the manner required by, Government Code sections 51280 through 51287, inclusive.
- B. The authorization granted to the Director by this Part does not include any of the following:
 - 1. Any action related to environmental clearance where the Director is not authorized to act under Title 21 of the San Jose Municipal Code; and
 - 2. Any reduction, waiver or deferral of the cancellation fee pursuant to Government Code section 51283.

20.110.230 Hearings

The Director shall administer and conduct all duly noticed public hearings required by Government Code sections 51280 through 51287 in lieu of the Council and in the manner required by Government Code sections 51280 and 51287.

CHAPTER 20.120
ZONING CHANGES AND AMENDMENTS

Part 1
General

20.120.010 Ordinances Initiated by Council

- A. The City Council on its own motion, may initiate, prepare, and adopt ordinances zoning or rezoning any property, or otherwise amending, supplementing, adding to, repealing, or changing any of the regulations or provisions of this Title.
- B. The Council shall refer the ordinance to the Planning Commission for its report or recommendations. The Planning Commission shall hold a Public Hearing pursuant to Section 20.120.040.
- C. Upon receipt of the report or recommendations from the Planning Commission, the Council shall hold a Public Hearing pursuant to Section 20.120.050.

20.120.020 Ordinances Initiated by Property Owners

- A. Owners of land, acting in person or through authorized agents, may petition for the zoning or rezoning of:
 - 1. Their land; or
 - 2. Their land plus land owned by others, if the petition is signed by owners, or authorized agents of owners, of
 - a. not less than fifty percent (50%) of the total area of all the land proposed to be zoned or rezoned; or
 - b. property constituting not less than fifty percent (50%) of the total frontage of all the land proposed to be zoned or rezoned.
- B. All land subject to the petition shall be contiguous. Land subject to the petition may be separated by a public street.
- C. All petitions shall be filed with the Director in a form prescribed by the Director and shall be accompanied by the fees set forth in the Schedule of Fees adopted by resolution of the City Council.

- D. Upon finding the petition complete, the Director shall review the petition and shall set a Public Hearing before the Planning Commission on the petition. The Planning Commission shall hold a Public Hearing pursuant to Section 20.120.040.
- E. Upon receipt of the report or recommendations from the Planning Commission, the Council shall hold a Public Hearing pursuant to Section 20.120.050.

20.120.030 Ordinances Initiated by the Director

- A. The Director, may initiate and prepare ordinances zoning or rezoning property, amending, supplementing, adding to, repealing, or changing any of the regulations or provisions of this Title.
- B. The Director shall refer the ordinance to the Planning Commission for its report or recommendations. The Planning Commission shall hold a Public Hearing pursuant to Section 20.120.040.
- C. Upon receipt of the report or recommendations from the Planning Commission, the Council shall hold a Public Hearing pursuant to Section 20.120.050.
- D. During the proceedings to adopt an ordinance zoning or rezoning property, amending, supplementing, adding to, repealing, or changing any of the regulations or provisions of this Chapter, the Council may make such changes, deletion, additions, or modifications to such ordinance as the Council may deem appropriate. The Council may adopt any changes, deletions, additions, or modifications thereto as the Council deems appropriate.
- E. For purposes of this Section the Executive Director of the San Jose Redevelopment Agency may initiate ordinances zoning or rezoning property within any Redevelopment Area. Once the Executive Director has initiated the zoning or rezoning, it shall be processed by the Director of Planning, Building and Code Enforcement pursuant to subsections B through D of this Section.

20.120.040 Hearing - Planning Commission

- A. Whenever the Planning Commission is required to hold a Public Hearing, Notice of the Public Hearing shall be given pursuant to Section 20.120.060.
- B. If the Planning Commission fails to hold or complete a Public Hearing within sixty (60) days after the date noticed for the Public Hearing, the Council may deem said failure to constitute a recommendation by the Commission that the proposed ordinance be not adopted, and may then proceed to adopt the ordinance notwithstanding the failure of the Commission to hold or complete the Public Hearing or submit its report or recommendations to the Council.

- C. Upon completion of the Public Hearing, the Planning Commission shall submit its report or recommendations to the Council.

20.120.050 Hearing - City Council

- A. Whenever the Council is required to hold a Public Hearing, Notice of the Public Hearing shall be given pursuant to Section 20.120.060.
- B. During the proceedings to adopt an ordinance amending, supplementing, adding to, repealing, or changing any of the regulations or provisions of this Chapter, the Council may make such changes, deletion, additions, or modifications to such ordinance as the Council may deem appropriate. The Council may adopt the ordinance, including any changes, deletions, additions, or modifications the Council deems appropriate.
- C. Failure of the Council to deny or to adopt an ordinance zoning or rezoning property, within sixty (60) days from and after the close of its Public Hearing, shall be deemed to be a denial of the proposed ordinance zoning or rezoning property.

20.120.060 Notice

Whenever the Planning Commission or the City Council is required by the provisions of this Chapter to hold any Public Hearing on any proposed ordinance, notice of the time, place, and purpose of such hearing shall be published at least once in a newspaper of general circulation published in the City, no later than ten (10) days immediately preceding the date of the hearing. The City Clerk shall cause such notices to be published.

20.120.070 Withdrawal of Petition

- A. When Notice of a Public Hearing has been given pursuant to Section 20.120.060, no petition which has been filed pursuant to Section 20.120.020 requesting the zoning or rezoning of any property may be withdrawn except with the consent of the decision maker at the Public Hearing.
- B. If any petition is withdrawn before the City Council denies the zoning or rezoning requested in the petition, no new petition shall be filed requesting the same zoning or rezoning for the same property, or any part thereof, within one (1) year from and after the date the first petition was filed.

20.120.080 Denial of Petition

If petition, filed pursuant to Section 20.120.020, is denied by the City Council, no new petition requesting the same zoning or rezoning for the same property, or any part thereof, shall be filed within one (1) year from and after the date of such disapproval or denial.

Part 2

Ordinances Conforming to the General Plan

20.120.100 Ordinances Conforming to the General Plan

- A. If the Council determines, at the time it initiates the zoning or rezoning of property pursuant to Section 20.120.010, that the proposed zoning or rezoning conforms to the Land Use/Transportation Diagram of the General Plan, the Council may, in lieu of the Planning Commission Hearing, refer the ordinance to the Director for a report or recommendation. No Public Hearing will be required. The report or recommendation shall be submitted to the Council no later than thirty days from the date the ordinance was referred by the Council.
- B. If the Director determines, that a petition for zoning or rezoning filed pursuant to Section 20.120.020, conforms to the Land Use/Transportation Diagram of the General Plan, the Director may, in lieu of the Planning Commission Hearing, prepare a report or recommendation for the City Council. No Public Hearing will be required. Nothing shall prevent the Council from referring such petition to the Planning Commission for its report and recommendation when it receives the report or recommendation from the Director.

20.120.110 Conformance with the General Plan

- A. For the purposes of Section 20.120.100 only, the determination of conformance of zoning or rezonings to the General Plan, shall be made in the manner set forth in Table 20-270:

Table 20-270	
General Plan Designation	Conforming District
All Designations	OS, A
Rural Residential (.2 du/ac), Urban Hillside (1 du/5 ac)	R-1-RR
Very Low Density Residential (2 du/ac)	R-1-2
Estate Residential (1 du/ac)	R-1-1
Low Density Residential (5 du/ac)	R-1-5
Medium Low Density Residential (8 du/ac)	R-1-8
Medium Density Residential (8-16 du/ac)	R-2, R-M
Medium High Density Residential (12-25 du/ac)	R-M
Office	CO
Neighborhood/Community Commercial	CP, CN
General Commercial	CP, CN, CG
Regional Commercial	CG
Industrial Park	IP
Light Industrial	LI
Heavy Industrial	HI

- B. A Planned Development (PD) Combining District conforms to the General Plan designation where the uses permitted by the General Development Plan for such proposed district conform to General Plan Designation and where the base zone thereof conforms to said designation in accordance with the foregoing table.
- C. Each portion of the property to be zoned or rezoned must conform to the General Plan designation for each such portion.

Part 3

Urgency Ordinances

20.120.200 Urgency Ordinance

When the Council finds, determines, and declares that any an ordinance is an urgency measure for the immediate preservation of the public peace, health, or safety, it may adopt such ordinance, effective immediately, without first referring the ordinance to the Planning Commission for its report or recommendation, and without itself first holding a Public Hearing.

20.120.210 Reconsideration of Urgency Ordinances

Upon adoption of any ordinance as an urgency measure, whether such ordinance zones or rezones any property or amends, supplements, adds to, repeals or otherwise changes any of the regulations or provisions of this Chapter, the City Council shall initiate proceedings pursuant to Section 20.120.010 to consider:

1. Repeal of the urgency ordinance; or
2. Readoption of the provisions of the ordinance, except the urgency provision, with such amendments, additions or changes, if any, as appropriate.

Part 4

Prezoning and Annexation

20.120.300 Prezoning of Adjoining Unincorporated Territory

- A. As used in this Section, "prezoning ordinance" means an ordinance which zones or rezones unincorporated territory adjoining the City into one or more City Zoning Districts. "Prezoned territory" means unincorporated territory adjoining the City which is zoned or rezoned into one or more City Zoning Districts by a prezoning ordinance.

- B. The City zoning provided in a rezoning ordinance shall not become effective unless and until the rezoned territory covered by such rezoning ordinance becomes annexed to the City. At any time before rezoned territory becomes annexed to the City:
1. the City zoning thereof may be changed by a subsequent rezoning ordinance; or
 2. all City zoning may be removed therefrom by a subsequent ordinance.
- C. Proceedings for the adoption of a rezoning ordinance shall be subject to the procedures set forth in Part 1 of this Chapter 20.120.
- D. Unless it shall have been otherwise zoned pursuant to Section 20.120.320 during pendency of the proceedings annexing it to the City, when rezoned territory or territory covered by a rezoning ordinance becomes annexed to the City, it shall, immediately upon its annexation to the City, or upon the effective date of the rezoning ordinance, whichever occurs last, without further action or proceedings, be deemed to be zoned in the City as provided in the rezoning ordinance covering such territory, and the Zoning District Map of the City shall, without further action or proceedings, be amended to show that such territory is zoned in the City as provided in such rezoning ordinance. After rezoned territory becomes annexed to the City, the zoning thereof shall be subject to change, and may be changed, to the same extent and in the same manner as the zoning of all property in the City is subject to change and may be changed.

20.120.310 Zoning of Agricultural Property Annexed to City

Unless the property shall have been otherwise zoned pursuant to the provisions of Sections 20.120.300 and 20.120.320, all unincorporated territory which, at the time of its annexation to the City, is zoned by the County of Santa Clara, under and pursuant to Title 12 of said County's Ordinance Code, as amended, as an "A-Exclusive Agricultural Zoning District" or an "A-1 Residential and Agricultural Zoning District" shall, immediately upon its annexation to the City, without further action or proceedings, be deemed to be and the same shall be zoned in the City as an A Agricultural District, and the Zoning District Map of the City shall, without further action or proceedings, be amended to show that such territory is zoned in the City as an A Agricultural District.

20.120.320 Emergency Zoning of Annexed Territory

At any time during pendency of proceedings to annex territory to the City, the City Council may, whenever it finds that it is necessary to do so for the immediate preservation of the public peace, health, and safety, adopt as an urgency ordinance, effective immediately upon adoption, an ordinance which without further action or proceedings, zones such territory immediately upon its annexation to the City.

Part 5

Zoning Protests

20.120.400 Zoning Protests - Filing

- A. The owner of any property within the protest line as defined in Section 20.120.410 or within the subject territory may file a formal protest against a proposed zoning, except when adoption is by urgency ordinance.
- B. Such protest must be filed in writing with the Director no later than 5:00 p.m. on the fifth (5th) day before the date of the opening of the Council's hearing on a proposed zoning ordinance.
- C. Each such protest shall set forth the following:
 - 1. The name and address of the protestant.
 - 2. The street address of the lot owned by the protestant or such other information as will enable the Director to determine the boundaries and location of such lot.
 - 3. A statement of protestant's interest in such lot together with such evidence thereof as the protestant may wish to submit.
 - 4. The zoning of such lot owned by protestant.
 - 5. The protestant's reasons for protesting the proposed zoning of the subject property.
- D. Minor errors or omissions in the information set forth in such a protest petition may be waived by the City Council. However, no such protest petition shall be deemed filed unless the following conditions are met:
 - 1. It is signed by one or more owners of an undivided interest of at least fifty-one percent (51%) in the lot or parcel for which such protest is filed, such interest being not merely an easement. A tenant under a lease which has a remaining term of ten years or longer shall be deemed an "owner" for purposes of this Section.
 - 2. All signatures thereto are acknowledged.
 - 3. Where the owner of an eligible protest site is a legal entity other than a person or persons, the protest petition is signed by the duly authorized officer of such legal entity.

4. Where such legal entity is a homeowners association, the protest petition is signed by the duly authorized officer of such association, or, in lieu thereof, by fifty-one percent (51%) of the members of such association.

20.120.410 Majority Protest Determination

- A. A majority protest occurs when the Director determines that written protests have been filed by the owners of sites bounded by fifty (50) percent or more of the total length of the protest line, or by the owners of not less than fifty (50) percent or more of the area of the subject property.
- B. Upon the filing of such a petition the Director shall investigate the same and determine:
 1. The boundaries and location of the parcel for which such protest petition is filed and whether it is an eligible protest site;
 2. The full amount of protest line bounding such lot or parcel; and
 3. Whether protestant's interest in such lot or parcel qualifies for the filing of a protest.
- C. In making such investigation and determination, the Director shall not be limited to the information contained in the petition. The Director may request the protestant to furnish additional necessary information and may otherwise obtain such information. If the Director desires additional information from the protestant, the protestant shall be so notified and given a reasonable time after such notice to furnish whatever additional information the Director deems necessary to make said determinations. If the protestant does not furnish such additional information within the time prescribed or if despite the furnishing of such additional information plus whatever other information the Director may have obtained, the Director is still at the close of the Council's hearing unable to make said determinations, such petition shall be void and shall not be considered.
- D. As used in this Part, the following terms shall have the following meanings:
 1. "Protest line" means and includes the sum of the perimeter lines, adjoining frontage lines, and opposite frontage lines bounding all the eligible protest sites, provided that no part of any boundary line of any eligible protest site shall be counted more than once in computing the total length of the protest line.
 2. "Subject property" is the land proposed to be zoned, excluding any portion thereof situate in a street.
 3. For purposes of this Part, "parcel" means a lot or parcel of land undivided by any street and excluding therefrom any portion thereof situate in a street.

4. An "eligible protest site" is a parcel which is an abutting site, an adjoining frontage site, or an opposite frontage site.
5. A "protesting site" is an eligible protest site for which a protest petition has been filed under and in accordance with the requirements of this Section.
6. "Street" means a public street. A "common street" is a street on which the subject property, and another parcel, each have a frontage.
7. A "common street frontage line" is the frontage line which the subject property, and another parcel have on the same side of a common street.
8. A "perimeter line" is a common boundary line between the subject property and an abutting site.
9. An "abutting site" is a parcel which abuts the subject property.
10. An "adjoining frontage site" is an abutting site with a common street frontage line which is one on the same side of the common street as that of the subject property, such common street frontage line, at its terminus closest to that of the subject property, being not separated from that of the subject property by any intervening parcel.
11. An "adjoining frontage line" is the uninterrupted common street frontage line of an adjoining frontage site, but in no event more than one hundred feet (100) thereof, beginning at the terminus thereof closest to the common street frontage line of the subject property.
12. An "opposite frontage site" is a parcel which is situate on the opposite side, from the subject property, of a common street which is not designated as an existing or proposed freeway or expressway in the latest adopted General Plan of the City of San Jose, provided that the common street frontage line of such parcel is situate wholly or partly within lines extending across the common street and drawn from the terminus of the common street frontage line of the subject property and at right angles to such frontage line of the subject property, or at right angles to a tangent thereto if such frontage line is an arc. Such lines extending across the common street shall be referred to herein as "lateral lines."
13. An "opposite frontage line" is all of the common street frontage line of an opposite frontage site situate within the lateral lines plus so much of the uninterrupted continuation thereof beyond an intersecting lateral line, up to a maximum of one hundred feet beyond such lateral line as is situate outside of the lateral lines.

20.120.420 Effect of Majority Protest

If the Director determines that a majority protest has been filed:

- A. In order to consider a motion to adopt the proposed ordinance, the City Council must first override the majority protest by an affirmative vote of at least two-thirds (2/3) of its members. Such override must occur within sixty (60) days from the close of the Public Hearing on said ordinance;
- B. The City Council may deny the proposed ordinance without first approving or overriding the majority protest; or
- C. If the City Council fails to override the majority protest and also fails to deny the proposed ordinance within sixty (60) days from the close of the Public Hearing on the proposed ordinance, said ordinance shall be deemed denied by the City Council on the sixty-first (61st) day.

Part 6 Planned Development Districts

20.120.500 Planned Development District

- A. Proceedings to zone certain territory to a Planned Development District may be initiated by the City Council or by petition joined in by all of the owners of the territory covered by the petition.
- B. The provisions of this Chapter 20.120 shall apply to the initiation, adoption and amendment of any Planned Development District. To the extent any provision of this Part conflicts with any other provision of this Chapter 20.120, the provisions of this Part shall apply.

20.120.510 General Development Plan Requirements

- A. The Planned Development District shall be individually designed to meet the needs of the territory so zoned. The uses and requirements of the Planned Development District shall be reflected in the General Development Plan which is adopted as part of the Planned Development zoning ordinance. The General Development Plan shall include, when applicable:
 - 1. All public and private use areas appropriately mapped, clearly identified, and shaded, including:
 - a. All permitted land uses, including unit type (single-family detached, single-family attached, multiple-family, etc.) and size for residential uses.

- b. Landscape areas, common open space, private open space, and public open space.
 - c. All public streets, private streets and driveways within the proposed PD zone, labeled "public street", "private street" or "driveway" with total right-of-way width dimensioned.
 - d. All public and private streets adjacent to the proposed Planned Development zone, labeled "public" or "private" and showing dimension from street centerline to ultimate right-of-way edge.
 - e. All public and private easements, including parking, access, utility, and pedestrian easements showing purpose and beneficiary of each easement.
2. Zoning regulations which include and specify:
- a. Permitted, conditional, and special use allowances.
 - b. Development standards, including:
 - i. All setbacks,
 - ii. Building heights (stories and feet),
 - iii. Parking (number of spaces and ratios),
 - iv. Minimum lot size and dimensions, if applicable.
 - c. Where landscaping is to serve a particular function, such as a screen or buffer, the particular function and landscape concept shall be identified. Where landscaping is proposed in the public right-of-way, the maintenance responsibility shall be specified.
 - d. Clear descriptions of any required off-site work, including street and infrastructure improvements.
 - e. Noise attenuation requirements, if any.
 - f. Environmental mitigation as required by the environmental clearance.
 - g. Any other appropriate conditions of approval.

3. Additional graphic (i.e. mapped) information as applicable, including:
 - a. The location of the closest buildings, both existing and approved, on adjacent properties.
 - b. All existing structures which are to be retained.
 - c. All significant existing natural features, including:
 - d. "Ordinance size" trees (18" diameter or larger) and any smaller trees which are significant by virtue of their species, location and/or significance to the site due to the limited amount of existing vegetation.
 - e. Creeks and waterways.
 - f. Rock outcroppings.
 - g. The location and required height of sound walls.
 - h. Topography shown, sufficient to describe terrain, including top of bank, where site is adjacent to creek or has an existing overall slope of more than two percent.
 - i. Proposed grading if any cut or fill slope exceeds eighteen (18) inches.
 4. Building elevations which illustrate the intended architectural style and character and the size, shape, materials and general detailing of buildings.
- B. Nothing herein shall preclude the Director, the Planning Commission or the City Council from requiring any additional information to be shown on the General Development Plan.

20.120.520 Planning Commission Recommendations

After a Public Hearing, the Planning Commission may:

1. Recommend that the subject territory be zoned to the Planned Development District as proposed.
2. Recommend that the subject territory not be zoned to the Planned Development District as proposed.

3. Recommend such changes to the proposed zoning as it deems appropriate. Without limiting the generality of the proceeding sentence, the Commission may recommend that the City Council:
 - a. Zone all or only part of the subject territory to the Planned Development District;
 - b. Provide a base district zoning which differs substantially from the proposed base district zoning;
 - c. Include a General Development Plan which differs substantially from the proposed General Development Plan.

20.120.530 Council Action

After a Public Hearing the City Council may:

1. Approve the proposed zoning to the Planned Development District.
2. Deny the proposed zoning to the Planned Development District.
3. Adopt an ordinance changing the proposed zoning in whatever way it deems appropriate regardless of how substantially this may differ from the proposed zoning. Without limiting the generality of the preceding sentence, the ordinance may:
 - a. Zone all or only part of the subject territory to the Planned Development District;
 - b. Provide a base district zoning which differs substantially from the proposed base district zoning;
 - c. Include a General Development Plan which differs substantially from the proposed General Development Plan.

CHAPTER 20.150

NONCONFORMING USES

Part 1

General Provisions

20.150.010 Purpose

The provisions in this Chapter are intended to permit the continued operation of legal nonconforming uses and continued use and replacement of legal nonconforming structures in a manner that does not impair the public peace, health, safety morals or welfare. The provisions are also intended to encourage the eventual elimination of legal nonconforming uses.

20.150.020 General Provisions

- A. A legal nonconforming use may be continued indefinitely, but if such use is discontinued or abandoned for a period of six (6) months or more, it shall thereafter conform to the provisions of this Title, unless the nonconforming use is reinstated with issuance of a Special Use Permit in accordance with Chapter 20.100.
- B. A legal non-conforming structure may continue to be used or replaced as follows:
 - 1. The restoration and/or replacement of a legal nonconforming structure wholly or partially destroyed by a catastrophic event or sudden cause which is beyond the control of the property owner, and which could not otherwise have been prevented by reasonable care and maintenance of the structure is permitted.
 - 2. Failure to apply for a building permit within nine (9) months of destruction or failure to begin construction within three (3) months of the issuance of a building permit shall be deemed to be discontinuation or abandonment of the use pursuant to Subsection A.
 - 3. The building or structure, as restored, shall not occupy any portion of the lot or parcel not occupied by the building or structure when such destruction occurred unless the building or structure as restored will comply with all development regulations prescribed by this Title for the district in which the lot or parcel is situate.
 - 4. No building or structure shall be restored pursuant to this Section unless all Development and building permits required for new conforming uses in the district in which the use is located have been secured.

5. Irrespective of where the building or structure, as restored, is located on the lot or parcel:
 - a. it shall not have a greater floor area than the building or structure contained when such destruction occurred; and
 - b. it shall not exceed the height of nor the number of stories contained in the building or structure at the time of such destruction; and
 - c. the off-street parking spaces and off-street loading spaces situate on the lot or parcel at the time of such destruction shall not be diminished in number or size.
- C. Any legal nonconforming use or structure which is enlarged, altered, converted, or changed, as provided in this Chapter, is subject to the parking requirements of Section 20.90.210 regarding any change in use.

20.150.030 PD Zoning Exception

- A. Upon the rezoning of land to a (PD) Planned Development combined district, other than by Council initiation, only those uses specified in the General Development Plan therefore, as either temporary or permanent uses, are permitted in the Planned Development District.
- B. Any use which becomes legal nonconforming in the base district because of a (PD) Planned Development rezoning initiated by Council may be continued but only until such time as a PD Permit pursuant to such rezoning is implemented on the site containing the legal nonconforming use(s).

20.150.040 Legal Nonconforming Use Subject to a Previously Issued Conditional Use Permit

- A. Whenever an existing use subject to a previously issued valid Conditional Use Permit becomes a legal nonconforming use, it remains subject to all of the provisions and requirements of Conditional Use Permit provisions of this Title.
- B. If a Conditional Use Permit for a legal nonconforming use contains a time-limit condition, the owner of the lot or parcel for which Permit was issued may apply to the City for renewal of the Conditional Use Permit, notwithstanding the fact that the existing use is not a permitted or conditional use in the District in which it is located or, that it does not conform to the regulations of such District.
- C. The owner of a lot or parcel, subject to a lapsed time-limited Conditional Use Permit, may apply for a new Conditional Use Permit, subject to the Subsection B above, if the use for which the Conditional Use Permit is sought has continued to exist without interruption since

the lapse of the Conditional Use Permit. Nothing in this provision shall exempt such owner from the obligation to apply for a new Conditional Use Permit in accordance with Chapter 20.100, and such owner shall be in violation of this Title, and subject to all remedies therefore, whenever a time-limited Conditional Use Permit lapses and no new Conditional Use Permit has been issued.

20.150.050 Nonconforming Use - Expansion and Enlargement

- A. Any legal nonconforming use may be expanded only upon issuance of and in compliance with a Special Use Permit, or Conditional Use Permit for uses which this Code would require a Conditional Use Permit, in accordance with the provisions in Chapter 20.100. Expansion includes, but is not limited to, the intensification of a use with or without an increase in floor area.
- B. Any building or structure which conforms with the development standards of the district, the use of which is a legal nonconforming use, may be enlarged or structurally altered, only upon a finding that such enlargement or structural alteration does not expand or allow for subsequent expansion of the legal nonconforming use, and does not significantly increase any identified impact such as traffic, on-street parking or noise . Such determination shall be made as part of the consideration of any Site Development Permit required for such enlargement or alteration by other provisions of this Code. If no Site Development Permit is required, such enlargement or alteration shall be made only upon the issuance of and in compliance with a Special Use Permit as provided in Chapter 20.100.

20.150.060 Nonconforming Structure - Expansion and Enlargement

- A. Any legal nonconforming structure, the use of which is not legal nonconforming, may be expanded upon such land only upon issuance of and in compliance with a Site Development Permit in accordance with the applicable development standards of the zoning district said structure is in. Nothing in this provision permits the further diminution of an existing nonconforming development standard except as otherwise provided for in this Title.
- B. Structures that do not conform to the current parking requirements are subject to the parking requirements of Section 20.90.210 regarding any change in use.

20.150.070 Change of Use

- A. For the purposes of this Section, a “Change in Use” shall be defined as a change from one enumerated use to a different enumerated use as set forth in Tables 20-30, 20-50, 20-90, 20-110 and 20-140.
- B. A legal nonconforming use may be changed to another nonconforming use of a like nature upon issuance of and in compliance with a Special Use Permit, provided such use is not subject to a Conditional Use Permit or Special Use Permit under any other provisions of this

Title. Any enlargement made in conjunction with such change must conform to the provisions of this Chapter.

- C. Two uses are of "like nature" when the Director determines that they are treated in essentially the same manner for all purposes under this Title and that the new use will not create an increase in such impacts as traffic, parking or noise. The "like nature" determination shall be made as part of the consideration of a Special Use Permit as provided in this Title.
- D. Where a lot or parcel which contains a legal nonconforming use also contains a conforming use, the existing conforming use may be changed to another conforming use only upon a finding that such proposed conforming use is compatible with such legal nonconforming use in terms of architecture as well as use. Such determination of compatibility shall be made as part of the consideration of any Site Development Permit, Conditional Use Permit, or Special Use Permit required for such change by other provisions of this Code. If no such permits are required, such change in use shall be made only upon the issuance of and in compliance with a Special Use Permit as provided in this Title.

20.150.080 Addition of New Uses

- A. No additional nonconforming use may be added to a property which contains a legal nonconforming use.
- B. Additional uses which conform to the provisions of this Title may be added to a property which contains a legal nonconforming use only upon a finding that such proposed additional use is compatible with the existing nonconforming use or uses in terms of architecture as well as use. Such determination of compatibility shall be made as part of the consideration of any Site Development Permit or Conditional Use Permit required for such additional use by other provisions of this Code. If no Site Development Permit or Conditional Use Permit is otherwise required, such additional use shall be added only upon the issuance of and in compliance with a Special Use Permit as provided in this Title.

20.150.090 Nonconforming Residential Use Regulations

Where property in a nonresidential district contains a legal nonconforming residence, such use shall continue to maintain the minimal side and front set backs as if it were located in an R-1-8 Residence District and shall in addition comply with all other applicable regulations and development standards for lots with a one-family dwelling.

20.150.100 Subdivision

A parcel which contains a legal nonconforming use or structure may be subdivided pursuant to Title 19 of this Code only if such subdivision does not, in any way, increase the degree or extent of the nonconformity.

20.150.110 Special Use Permits - Findings

- A. The Director, or the Planning Commission, on appeal, shall issue a Special Use Permit for a nonconforming use only if the following findings can be made:
1. In case of an application for a Special Use Permit for reinstatement of a legal nonconforming use:
 - a. No more than eighteen (18) months has elapsed between the date the legal nonconforming use was first discontinued or abandoned and the date the application for the Special Use Permit was filed and found complete; and
 - b. The conversion to a conforming use would create undue hardship under the particular circumstances presented.
 - c. The finding required by subsection a, above does not need to be made for reinstatement of residential legal nonconforming uses or the residential mixed use residential/commercial legal nonconforming uses.
 2. In case of an application for a Special Use Permit for expansion or enlargement:
 - a. The expansion of the use upon the land, or the alteration or enlargement of the building or structure, does not significantly increase any identified impact such as traffic, on-street parking or noise.
 3. In the case of an application for a Special Use Permit for a change in use, it is found that:
 - a. The nonconforming use is being changed to a use of like nature.
 4. In case of an application for a Special Use Permit for determination of compatibility of nonconforming and conforming uses when either changing a conforming use to another conforming use or adding a conforming use, it is found that:
 - a. The change or addition of a conforming use on site is compatible with any existing nonconforming use on site in terms of architecture as well as use.
- B. In addition to the findings required by Subsection A, no Special Use Permit shall be issued, pursuant to this Part, unless it is found that:
- a. The Permit will not impair the character and integrity of the neighborhood; and
 - b. The Permit will not impair the utility or value of adjacent property or the general welfare of the neighborhood; and

- c. The Permit is not detrimental to the public peace, health, safety, morals or welfare.

Part 2

Adverse Public Impact

20.150.200 Non conforming Uses - Adverse Public Impact

- A. Notwithstanding Section 20.150.020, any lawful use rendered nonconforming due to annexation or a change in Title 20 of this Code which resulted in:

- 1. A new or changed zoning district classification of the site; or
- 2. Prohibition of the use in the existing zoning district; or
- 3. The requirement for a Conditional Use Permit for the use;

shall be deemed a legal nonconforming use for the purposes of this Part only as long as such use does not create an adverse public impact as specified in the following Section.

- B. Use of the procedures contained in the following Sections shall not be deemed to confer legal nonconforming status on any use which is subsequently determined to have been illegal at the time that the Order to Show Cause was issued.

20.150.210 Adverse Public Impact

- A. An adverse public impact may be demonstrated by:

- 1. Evidence of noncompliance with any condition or any law, ordinance or prior permits; or
- 2. Evidence of a substantially changed condition in neighborhood; or
- 3. Evidence that the use is creating a nuisance as defined by this Title; or
- 4. Evidence that the use substantially impairs the public peace, health, safety, morals or welfare.

- B. Evidence of an adverse public impact may include, but not be limited to, impacts such as noise, traffic, parking, crime, or disturbance of the health, safety, peace or welfare of the neighboring public by owners, managers, residents, patrons or guests of the subject property.

20.150.220 Order to Show Cause

- A. The Director of Planning may issue an Order to Show Cause why a legal nonconforming status should not be revoked and the use be subject to a Conditional Use Permit or terminated due to adverse public impact.
- B. Such Order shall state the basis of the adverse public impact(s), specify the facts and allegations upon which it is based and shall give notice of the time and place of a hearing to be held before the Planning Commission.

20.150.230 Notice

- A. Notice of the Order to Show Cause and public hearing shall be given in accordance within Section 20.100.190 of this Title. A copy of the Order shall be included with the Notice.
- B. In addition to the Notice required by Section 20.100.190, a copy of the Order and Notice shall be mailed to "Occupant" at the address of the real property subject to the Order of Show Cause.

20.150.240 Hearing on Order to Show Cause

- A. At the time specified in the Order to Show Cause, or at such later time to which the matter is continued, the Planning Commission shall hold a hearing to the status of the legal nonconforming use.
- B. The Planning Commission, or the City Council on appeal, shall hear and consider all relevant testimony and evidence presented.
- C. The Planning Commission, or the City Council on appeal, shall determine whether or not the legal nonconforming use shall be:
 - 1. Permitted to continue as a legal nonconforming use; or
 - 2. Allowed to continue subject to a Conditional Use Permit and conditions which will prevent the adverse public impact demonstrated pursuant to Section 20.150.250; or
 - 3. Terminated pursuant to Section 20.150.260.
- D. Notice of the decision of the Planning Commission, or the City Council on appeal, shall be sent by certified mail to the owners and appellants, if any, and to any other person who has, in writing, requested a copy of such decision.

20.150.250 Findings for Requirement of a Conditional Use Permit

- A. The Commission, or the City Council on appeal, may allow the use to continue subject to a Conditional Use Permit issued by the Commission, if a finding is made that:
 - 1. The use constitutes or results in an adverse public impact; and
 - 2. The conditions contained in the Conditional Use Permit will prevent or make insubstantial the adverse public impact(s).
- B. In such case, the use shall for all purposes be treated as a conditional use subject to the terms of the Conditional Use Permit.
- C. The Conditional Use Permit shall not be effective unless the property owner pays the fees for conversion to a Conditional Use Permit as specified in the Schedule of Fees adopted by Resolution of Council.

20.150.260 Findings for Termination of Use

- A. The Commission, or the City Council on appeal, may terminate the legal non-conforming use upon finding that:
 - 1. The use constitutes or results in an adverse public impact; and
 - 2. The adverse public impact(s) cannot be adequately abated, substantially corrected or rectified with a Conditional Use Permit; or
 - 3. There are uncorrected violations of a city permit, ordinance or state law.
- B. Upon determining that a nonconforming use shall be terminated, the Planning Commission, or the City Council on appeal, shall also determine what, if any, amortization period is necessary to allow the property owner a reasonable period to terminate the use commensurate with the nature and extent of the owner's investment in the property.
- C. In determining the amortization period, the Commission, or the City Council on appeal, shall consider, among other factors:
 - 1. The length of time the property has been owned by the property owner;
 - 2. The owner's ability to readily convert the use to a use which is permitted within the zoning district; and
 - 3. The difference, if any, between the value of the prior use and the value of the permitted uses; and

4. The impacts of allowing the use to continue.

20.150.270 Appeal of Commission's Decision

- A. Any action taken by the Planning Commission, after a hearing on an Order to Show Cause, may be appealed to the City Council by filing a written notice of appeal with the Director within ten (10) calendar days after a copy of the decision of the Planning Commission has been placed in the mail to the owners of the subject property.
- B. Any owner or tenant of the subject property or any property within three (300) hundred feet of the subject site may file such an appeal.
- C. The City Clerk shall set the date of the Public Hearing by the Council on the appeal which date shall not be less than ten (10) nor more than sixty (60) days after the date on which the appeal was filed. Notice of Hearing shall be provided in accordance with Section 20.100.190.
- D. The City Council shall hold at least one public hearing on the matter. The hearing of the Council shall be de novo.
- E. The decision of the City Council shall be final.
- F. The City Clerk shall mail a certified copy of the decision of the City Council to the owner and tenant(s) of the property and, if different, the appellant.

Part 3 Amortization

20.150.300 Amortization - Public Payphones

- A. Any public pay telephone governed by the provisions of Part 12 of Chapter 20.80 which was a legal use on February 19, 2001 but which did not conform to the provisions of Part 12 of Chapter 20.80 on that date shall be terminated within six (6) months from February 19, 2001.
- B. Any public pay telephone governed by the provisions of Part 12 of Chapter 20.80 that was a legal use on September 28, 2001 but did not conform to the additional provisions of that Part 12 that became effective on that date, regarding location of a public pay telephone on a wall containing a primary entrance and/or regarding a minimum five (5) foot pedestrian access between the public pay telephone and the private property line, shall be terminated within six (6) months from September 28, 2001.

20.150.310 Extension of Time for Termination of Nonconforming Use

The operator of a nonconforming use as described in Section 20.150.300 may apply under the provisions of this Section to the City Council for an extension of time within which to terminate the nonconforming use.

A. Time and Manner of Application

An application for an extension of time within which to terminate a use made nonconforming by the provisions of Section 20.150.300 may be filed by the owner of the real property upon which such use is operated or by the operator of the use. Such an application must be filed with the City Clerk at least ninety (90) days prior to the time established in Section 20.150.300 for termination of such use.

B. Content of Application; Fees

The application shall state the grounds for requesting an extension of time. The filing fee for such application shall be as set forth in the Schedule of Fees established by resolution of the City Council.

C. Hearing on Application

Upon filing of an application for extension, the City Clerk shall, subject to the rules of the City Council as to the hour and place of public hearings which shall be conducted by it, set a date for a public hearing which shall be held by the City Council on said application. Said date of hearing shall be not less than twenty (20) nor more than sixty (60) days from and after the date said application was filed and all filing fees were paid.

D. Notice of Hearing

The City Clerk shall cause notice of the time and place of the hearing on the application to be given in accordance with the procedure set forth in Section 20.100.190 of this Title.

E. Approval of Extension; Findings

Within a reasonable time after the public hearing on an application for extension has been conducted, the City Council shall by resolution take action on the request for the extension. Unless the extension is approved by at least a majority of the Council, it shall be deemed denied. An extension under the provisions of this Section shall be for no more than one (1) year and shall be approved only if the City Council makes all of the following findings:

1. The applicant has made a substantial investment (including but not limited to lease obligations) in the property or structure on or in which the nonconforming use is conducted; such property or structure cannot be readily converted to another use; and such investment was made prior to February 19, 2001.

2. The applicant will be unable to recoup said investment as of the date established for termination of the use; and
3. The applicant has made good faith efforts to recoup the investment.

20.150.320 Amortization - Temporary Structures

Any temporary structure which meets the definition of Section 20.200.1240 which existed on February 19, 2001 and has remained in continuous use and which does not conform to the provisions of this Title shall be terminated within six (6) months from February 19, 2001.

20.150.330 Amortization - Incidental dancing and music

Any incidental music or dancing associated with a bona fide public eating establishment or drinking establishment which is not part of a conditional use permit, and which was a legal use on September 28, 2001 shall be terminated within six (6) months from September 28, 2001. All incidental music after this date shall be as defined in Section 20.200.940.

CHAPTER 20.160

REQUESTS FOR REASONABLE ACCOMMODATION

20.160.010 Purpose

It is the policy of the City of San Jose to provide reasonable accommodation for persons with disabilities seeking fair access to housing in the application of its zoning laws. The purpose of this Chapter is to provide a process for making a request for reasonable accommodation.

20.160.020 Application

- A. Any person who requires reasonable accommodation, because of a disability, in the application of a zoning law which may be acting as a barrier to fair housing opportunities may do so on a form to be provided by the Director.
- B. If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

20.160.030 Required Information

The applicant shall provide the following information:

- 1. Applicant's name, address and telephone number;
- 2. Address of the property for which the request is being made;
- 3. The current actual use of the property;
- 4. The zoning code provision, regulation or policy from which accommodation is being requested;
- 5. The bases for the claim that the individual is considered disable under the Fair Housing Act and why the accommodation is necessary to make the specific housing available to the individual.

20.160.040 Notice of Request for Accommodation

Written Notice that a Request for Reasonable Accommodation shall be given as follows:

1. In the event that there is no approval sought other than the request for reasonable accommodation, the Notice shall be mailed to the owners of record of all properties which are immediately adjacent to the property which is the subject of the Request.
2. In the event that the Request is being made in conjunction with some other process, the Notice shall be transmitted along with the notice of the other proceeding.

20.160.050 Grounds for Accommodation

In making a determination regarding about the reasonableness of a requested accommodation, the following factors shall be considered:

1. Special need created by the disability;
2. Potential benefit that can be accomplished by the requested modification;
3. Potential impact on surrounding uses;
4. Physical attributes of the property and structures;
5. Alternative accommodations which may provide an equivalent level of benefit;
6. In the case of a determination involving a one-family dwelling, whether the household would be considered a single housekeeping unit if it were not using special services that are required because of the disabilities of the residents;
7. Whether the requested accommodation would impose an undue financial or administrative burden on the City; and
8. Whether the requested accommodation would require a fundamental alteration in the nature of a program.

20.160.060 Notice of Proposed Decision

1. Notice of the proposed decision shall be made in the same manner as provided above.

2. Within ten (10) days of the date the Notice is mailed, any person may make a request for a Director's Hearing upon a proposed decision.
3. If no request for hearing is received the proposed decision shall become a final Director's Decision.

20.160.070 Director's Hearing

The Director shall conduct a hearing on the Request for Reasonable Accommodation at which all reasonable evidence and credible testimony shall be considered.

20.160.080 Notice of Director's Decision

- A. Within thirty (30) days after the Hearing, the Director shall issue a decision granting the request, including any reasonable conditions, or denying the request.
- B. The Notice of Decision shall contain the Director's factual findings, conclusions and reasons for the decision.
- C. The Notice of Decision shall be made in the same manner as set forth in the previous section.

20.160.090 Appeal to Planning Commission

- A. Within thirty (30) days after the Notice of Director's Decision, any person may appeal in writing to the Planning Commission.
- B. All appeals shall contain a statement of the grounds for the appeal.

CHAPTER 20.170

RESIDENTIAL CONDOMINIUM AND COMMUNITY APARTMENT PROJECT REGULATIONS

Part 1 General

20.170.010 Purpose of Chapter

- A. This Chapter is enacted to establish requirements and procedures for the control and approval of conversion of existing multiple-family rental housing and nonresidential structures to residential condominium and community apartment projects. By their unique character and requirements, conversions differ specifically from other subdivisions and apartments. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare, and economic prosperity of the City of San Jose. Such projects may conflict with the policy of the City of San Jose to provide a reasonable balance of rental and ownership housing within the City, to provide a variety of individual choices of tenure, type, price, and location of housing and to maintain the supply of rental housing for low and moderate income persons and families. To insure that such problems are avoided in both short and long term, it is the express intent of the City of San Jose to treat such projects differently from Multiple dwellings or other structures which are not residential condominium or community apartment projects, and to establish rules and standards thereto regulating the conversion to such projects in the City of San Jose.
- B. This Chapter is enacted to insure that proposed conversions are approved consistent with policies and objectives of the City of San Jose, particularly the following:
1. To make adequate provision for the housing needs of all economic segments of the community;
 2. To facilitate inhabitant ownership of residential units, while recognizing the need for maintaining adequate rental housing inventories in the high-density urban setting;
 3. To provide a reasonable balance of rental and ownership housing;
 4. To inform prospective conversion purchasers regarding the physical conditions of the structures offered for purchase.

20.170.020 Definitions

For the purpose of this Chapter, certain words and phrases are defined and certain provisions shall be construed as herein set forth unless it shall be apparent from their context that a different meaning is intended.

20.170.030 Association

"Association" is the organization of persons who own a condominium unit or have right of exclusive occupancy in a community apartment.

20.170.040 Common Area

"Common area" is an entire project excepting all units therein.

20.170.050 Community Apartment

"Community apartment" is an estate in real property consisting of an undivided interest in common in a parcel of real property and the improvements therein coupled with the right of exclusive occupancy for residential purposes of an apartment located thereon.

20.170.060 Community Apartment Project

"Community apartment project" is the conversion of an existing structure to a community apartment containing four or more apartments to which there is the right of exclusive occupancy for residential purposes.

20.170.080 Condominium

"Condominium" is an estate in real property consisting of an undivided interest in common in a portion of a parcel of real property together with a separate interest in space in a residential, industrial, or commercial building on such real property, such as an apartment, office, or store. A condominium may include, in addition, a separate interest in other portions of such real property. Such estate may, with respect to the duration of its enjoyment, be either of the following:

1. An estate of inheritance or perpetual estate.
2. An estate for life.
3. An estate for years, such as a leasehold or subleasehold.

20.170.090 Condominium Project or Residential Condominium Project

A "condominium project" or "residential condominium project" is the conversion of an existing structure to a condominium containing four or more condominiums for residential purposes.

20.170.100 Conversion

"Conversion" is a change in the type of ownership of a parcel or parcels of land, together with the existing attached structures, to that defined for a condominium project or community apartment project regardless of the present or prior use of such land and structures, and whether substantial improvements have been made or are to be made to such structures.

20.170.110 Developer

"Developer" is the owner or subdivider with a controlling proprietary interest in the proposed project.

20.170.120 Handicapped Tenant

"Handicapped tenant" is a tenant who is the primary wage earner of a household, or a single person, with any medically determinable physical or mental impairment limiting his or her mobility, substantially affecting his or her ability to obtain employment, or requiring special care facilities in the home. "Physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical or laboratory diagnostic techniques.

20.170.130 Low Income

"Low income", when used by itself or as a modifier of "tenant" or other term, means 80% or less of the current median income as established annually by the U.S. Department of Housing and Urban Development (HUD) for the San Jose Standard Metropolitan Statistical Area (SMSA) as adjusted for household size.

20.170.140 Organizational Documents

"Organizational documents" are the declaration of covenants, conditions and restrictions, articles of incorporation, bylaws, and any contracts for the maintenance, management, or operation of all or any part of a project.

20.170.150 Project

"Project" is a residential condominium project or community apartment project.

20.170.160 Recreational Open Space

"Recreational open space" is open space on the project (exclusive of the required front setback area) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their visitors) of units on the project and to which such occupants (and their visitors) shall have the right of use and enjoyment. Accessory structures such as swimming pools, recreational buildings, and landscaped areas may be included as open space.

20.170.170 Unit

"Unit" is the element of a residential condominium project which is not owned in common with the owners of other condominiums in the project, or is an apartment in a community apartment project to which an owner of an undivided interest in common in a community apartment project has a right of exclusive occupancy.

20.170.180 Unjust Eviction

"Unjust eviction" is an eviction for other than one or more of the following reasons:

1. The tenant has failed to pay the rent to which the landlord is entitled;
2. The tenant has violated an obligation or covenant of the tenancy other than the obligation to surrender possession upon proper notice and has failed to cure such violation after receiving written notice thereof from the landlord;
3. The tenant is committing or permitting to exist a nuisance in, or is causing damage to, the rental unit or to the appurtenance thereof, or to the common areas of the property containing the rental unit, or is creating an unreasonable interference with comfort, safety, or enjoyment of any of the other residents of the same or any adjacent building;
4. The tenant is using or permitting a rental unit to be used for any illegal purpose;
5. The tenant who had a written lease or rental agreement which terminated during any notice period or proceeding under this Chapter, has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further period with similar provisions, in such terms and for such period as are not inconsistent with or violate of any provisions of this Section or Chapter;
6. The tenant has refused the landlord reasonable access to the unit for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;

7. The person in possession of the rental unit at the end of the lease or rental term is a subtenant or assignee not approved by the landlord, where the lease or rental agreement requires approval by the landlord of any assignment or subtenancy.

Part 2

Use Permit Procedure

20.170.200 Conditional Use Permit Required

No conversion to a project shall be permitted in any district unless the same is permitted in such district pursuant to the provisions of this Title, nor shall any conversion to a project be permitted in any district in which it is permitted pursuant to the provisions of this Title unless and until a Conditional Use Permit therefor has been issued under the provisions of this Title.

20.170.210 Special Noticing and Report Requirements

- A. In addition to the requirements of Section 20.100.190, notice of time, place, and purpose of any public hearing on an application for a Conditional Use Permit for conversion to a project shall be given to each tenant of the proposed project hereinafter identified pursuant to the provisions of this Part. Each such notice shall be printed in English and Spanish.
- B. The Director shall mail, postage prepaid, a copy of the staff report on an application for a Conditional Use Permit for conversion to a project, at least five (5) days before the date set for hearing by the Planning Commission, to each tenant of the proposed project hereinafter identified pursuant to the provisions of this Part.
- C. Notwithstanding the preceding provisions of this Section, the failure of the Director or City Clerk to mail any notice or report, or the failure of any tenant to receive the same, shall not affect in any way whatsoever the validity of any proceedings taken under this Chapter, nor of any action or decision of the Planning Commission or City Council made or taken in any such proceedings, nor prevent the Planning Commission or City Council from proceeding with any hearing at the time and place set therefor.

20.170.220 Application for Conditional Use Permit

Recognizing that the conversion of structures, which have been previously occupied, to a project presents unique problems to present tenants and future buyers, in addition to any requirements relating to applications for Conditional Use Permits, the application for a Conditional Use Permit for a conversion to a project shall include the following information:

1. Satisfactory evidence that, at least sixty (60) days prior to the date of filing such application, each of the tenants of the proposed project received, pursuant to Section 20.170.400 of this Chapter, written notification of intention to convert; and that,

thereafter, each person applying for rental of a unit in the proposed project, prior to payment of any rent or deposit, received notification of intention to convert.

2. Provision that, after the date of filing such application, each person applying for rental of a unit in the proposed project, prior to payment of any rent or deposit, shall receive, pursuant to Section 20.170.400 of this Chapter, written notification of intention to convert.
3. A boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
4. The proposed organizational documents. In addition to such covenants, conditions, and restrictions that may be required by the Department of Real Estate of the State of California pursuant to Title 6 (Condominiums) of the Civil Code or other State laws or policies, the organization documents shall provide for the following:
 - a. Conveyance of units;
 - b. Assignment of parking and management of common areas within the project;
 - c. A proposed annual operating budget containing a reserve fund to pay major anticipated maintenance, repair, or replacement expenses; and indicating the association fees needed for the operating budget and the reserve fund;
 - d. FHA regulatory agreement, if any;
 - e. The most recent balance sheet of the association.
5. A provision that the annual assessments to members of the association shall provide for penalties for late payments and reasonable attorneys' fees and costs in the event of default by said members.
6. Provision to allow the association to terminate the contract of any person or organization engaged by the developer to perform management or maintenance duties after the association assumed control of the project or anytime thereafter.
7. A property report describing the condition and estimating the remaining useful life of each of the following elements of each structure situate within the project proposed for conversion: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, sewage systems, swimming pools, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems, fire protection systems including any automatic sprinkler systems, alarm systems, or standpipe systems, and structural elements. For any element whose useful life is less than five (5) years, a

replacement cost estimate shall be provided. Such report shall be prepared by an appropriately licensed contractor or registered civil or structural engineer.

8. A structural pest control report. Such report shall be prepared by a licensed structural pest control operator pursuant to Section 8516 of the Business and Professions Code.
9. A building history report including the following:
 - a. The date of construction of all elements of the project.
 - b. A statement of the major uses of said project since construction.
 - c. The date and description of each major repair of any element since the date of construction. For the purposes of this Subsection, a "major repair" shall mean any repair for which an expenditure of more than one thousand dollars was made.
 - d. The date and description of each major renovation of any element since the date of construction. For the purposes of this Subsection, a "major renovation" shall mean any renovation for which an expenditure of more than one thousand dollars was made.
 - e. Statement regarding current ownership of all improvements and underlying land.
 - f. The name and address of each present tenant of the project.
 - g. Failure to provide information required by Subsections 9(a) through 9(f), inclusive, shall be accompanied by an affidavit, given under penalty of perjury, setting forth in detail all efforts undertaken to discover such information and all reasons why said information cannot be obtained.
10. A rental history detailing the size in square footage and number of bedrooms, the current or last rental rate, the monthly rental rate for the preceding two years, and the monthly vacancy over the preceding two years of each rental unit proposed to be converted.
11. A true copy of each application to the California Department of Real Estate for issuance of a final public report for the project proposed for conversion including all attachments and exhibits thereto required by the Department pursuant to Section 11011 of the Business and Professions Code. A true copy of the statement of compliance (form 643 as amended) pursuant to Title 10, California Administration Code, Section 2792.9, or its successor, relating to operating and maintenance funds during start-up. A statement whether the developer will provide any capital

contribution to the association for deferred maintenance of the common areas, and if so, the sum and date on which the association will receive said sum.

12. A true copy of the Supplemental Questionnaire for Apartments Converted to Condominium Projects submitted to the California Department of Real Estate for the project proposed for conversion, including all attachments and exhibits thereto.

20.170.230 Additional Application Requirements

The information required to be furnished pursuant to Subsections K and L of Section 20.170.220 above shall be subject to the following provisions:

1. To the extent that such information is not available at the time of application, any Conditional Use Permit issued under this Chapter shall require the developer to furnish such information to the Director within ten (10) days of submission of the same to the Department of Real Estate.
2. The developer shall file with the Director a true copy of any amended or revised documents submitted to the Department of Real Estate prior to the public hearing before the Planning Commission or City Council on a Conditional Use Permit for conversion to a project. (The violation of any of the conditions of an approved Conditional Use Permit for conversion to a project is grounds for revocation of such permit.)
3. The developer shall file with the City a true copy of the final public report within ten (10) days of issuance by the Department of Real Estate.

20.170.240 Conditional Use Permit Findings

To achieve the purposes of this Chapter, all projects shall conform to the requirements of this Chapter and all other parts of this Title applicable thereto, provided that if there is any conflict between the provisions of this Chapter and such other parts of this Title, the provisions of this Chapter shall control. An application for a Conditional Use Permit for a project which does not comply with all of the development standards in Section 20.170.300 may, but shall not under any circumstances be required to be granted and a Conditional Use Permit may be issued therefor if the Planning Commission or City Council finds that:

1. Because of circumstances applicable to the subject property or to the structures situate thereon, including (but not limited to) the size, shape, location or surroundings of the subject property or the buildings situate thereon, but expressly excluding any consideration of the personal circumstances of the developer, the strict application of the development standards set forth in Section 20.170.300 would create an unreasonable economic hardship, and

2. A Conditional Use Permit issued under this Chapter not in conformance with such development standards, subject to such conditions as may be imposed thereon:
 - a. Will provide for substantial compliance with such development standards, and
 - b. Will incorporate mitigating features into the project which tend to further the purposes of this Chapter.

Part 3

Property And Code Requirements

20.170.300 Development Standards

Subject to the provisions of Section 170.60.240, to achieve the purposes of this Chapter, all projects shall conform to the following development standards:

1. The off-street parking requirements for a project shall be one and one-half parking spaces for each unit. One such space per unit shall be assigned.
2. The consumption of gas and electricity within each unit shall be separately metered so that the unit owner can be separately billed for each utility. A water shut-off valve shall be provided for each unit or for each plumbing fixture.
3. Each unit shall have its own panel board for all electrical circuits which serve the unit.
4. Wall and floor-ceiling assemblies shall conform to the sound insulation performance criteria promulgated in Title 25, Chapter 1, Subchapter 1, Article 4, Section 78, or its successor, of the California Administrative Code. Required existing floor covering may only be replaced by another floor covering that provides the same or greater insulation.

20.170.310 Property and Structural Pest Control Reports - Code Compliance

- A. After reviewing the property and structural pest control reports required to be submitted pursuant to Section 20.170.220 and inspecting the structures situate within the project, the Building Official shall identify all items evidenced by such reports and/or inspection to be hazardous to the life, health, or safety of the occupants of such structure within the project or the general public. Each permit issued hereunder shall require all such items to be corrected to the satisfaction of the Building Official.

- B. The Director shall certify that the proposed project complies with the applicable provisions of the City of San Jose Housing Code, at the time of application and in addition, that said project complies with the applicable provisions of the City of San Jose Building Code and Title 25, Chapter 1, Subchapter 1, Sections 26, 88, 110, and 112, or their successors, of the California Administrative Code relating to fire regulations in force and in effect at the time each existing structure was erected within said project. If said project does not comply with said codes and said fire regulations as hereinabove required, said Director shall so advise the Planning Commission, or the City Council on appeal, in writing.

20.170.320 Code Compliance Bond

If the proposed project does not comply with the applicable provisions of Section 20.170.310 relating to compliance with the City of San Jose Housing and Building Codes and said fire regulations, and/or the Building Official identifies items to be corrected as provided in Section 20.170.310, any Conditional Use Permit issued pursuant to this Chapter shall require the developer to furnish a bond in a penal amount equal to the reasonable estimated cost to bring the project into compliance with said codes, said fire regulations and/or such identified items to be corrected as provided in Section 20.170.310. Said bond shall run in favor of individual purchasers and the association. Said bond shall provide for reasonable attorney's fees in the event of default by the principal.

20.170.330 Effectiveness of Permit

A Conditional Use Permit issued under this Chapter for conversion to a project may be issued prior to the time items have been so corrected and/or such compliance has been made with the said codes and said fire regulations as hereinabove provided in Section 20.170.320, but such permit shall not become effective unless and until such items have been so corrected and/or such compliance has been made, and each permit shall so provide.

20.170.340 Recreational Open Space

Without limiting the generality of the provisions relating to conditions which may be imposed on a Conditional Use Permit issued under this Title, the Planning Commission or City Council may make any Conditional Use Permit which may be granted under this Chapter subject to a condition requiring recreational open space in a manner and to an extent it may deem reasonably necessary to secure the general purposes of this Title.

Part 4

Tenant and Buyer Protection

20.170.400 Notice of Intention to Convert

At least sixty (60) days prior to the date of filing an application for a Conditional Use Permit for conversion to a project, the developer shall notify each of the tenants of the proposed project of his intention to convert, and thereafter, the developer shall notify each person applying for rental of a unit in the proposed project, prior to payment of any rent or deposit, of his intention to convert. Said notice of intention to convert shall contain a statement that the developer intends to convert the building to a project, and for that purpose that (1) he will file an application for a Conditional Use Permit with the City of San Jose, and (2) he has or will file an application for a final public report with the California Department of Real Estate. Said notice shall also contain a statement of tenants' rights, pursuant to Section 20.170.420, including:

1. Right to terminate lease or rental agreement;
2. Limitation on increases of rent;
3. Right of continued tenancy;
4. Protection against unjust eviction;
5. Protection against coercion or retaliatory action;
6. Exclusive "right of first refusal" to purchase the unit; and
7. "Right to quiet enjoyment" of the unit.

20.170.410 Notice of Public Report

Within five (5) days of receipt of the final public report on the proposed project from the California Department of Real Estate (hereinafter "final public report"), the developer shall notify each of the tenants of the proposed project of the issuance of said report. Said notice shall indicate that copies of said report are available on request, and shall contain a restatement of certain tenants rights, pursuant to Section 20.170.420, including:

1. Right of continued tenancy.
2. Exclusive "right of first refusal" to purchase the unit, and
3. "Right to quiet enjoyment" of the unit.

20.170.420 Tenants' Rights

From the date of issuance of a notice of intention to convert, pursuant to Section 20.170.410, until the date indicated, if applicable, each tenant of a proposed project shall have the following rights with respect to his or her rental unit:

1. The right to terminate a lease or rental agreement, without penalty, upon thirty (30) days' notice to the landlord.
2. Notwithstanding the provisions of Chapter 17.23 of Title 17 of this Code, no increase in rent until termination of a lease or rental agreement pursuant to Subdivision A, or until twelve (12) months after the date of such issuance, whichever comes first.
3. The right of continued tenancy until 180 days after issuance of the final public report or expiration of the tenant's lease or rental agreement, whichever is longer, and then only upon thirty (30) days' notice to vacate.
4. No unjust eviction during tenancy.
5. No coercion or retaliatory action against any such tenant, including pressure to support, or refrain from opposing, a project.
6. An irrevocable, nontransferable preemptive right (i.e., "right of first refusal") to purchase the unit at a price no greater than the price offered to the general public for such unit or comparable unit, if such tenant is not in default under the terms of his or her lease or rental agreement, until 90 days after issuance of the final public report.
7. No remodeling of the interior of such unit to prepare it for sale (i.e. "right to quiet enjoyment") until 150 days after issuance of the final public report.

20.170.430 Relocation and Purchase Assistance

Without limiting the generality of the provisions relating to conditions which may be imposed on a Conditional Use Permit under this Title, the Planning Commission or the City Council may make any Conditional Use Permit which may be granted under this Chapter subject to a condition requiring a plan of relocation and purchase assistance for tenants of a proposed project. Such a plan may include the following provisions:

1. Relocation assistance including, but not limited to, active assistance in securing comparable replacement housing for tenants who will be displaced, and a payment to each household for displacement costs.
2. A rental assistance payment to displaced tenants of a project equal to the difference between the pre-conversion rent and that of a comparable replacement unit for up to twenty four (24) months to mitigate any rent increase due to relocation.

20.170.440 Documents Furnished to Prospective Purchasers

The developer shall furnish each prospective purchaser of a unit within a project a true copy of the Conditional Use Permit issued under this Chapter and each of the following informational documents:

1. The property report.
2. The structural pest control report.
3. The building history report excluding, however, items (f) and (g) thereof.
4. Statement of Compliance (form 643) pursuant to Title 10, California Administrative Code, Section 2792.9, or its successor, relating to operating and maintenance funds during start-up.
5. The proposed annual operating budget of the association indicating a reserve fund to pay major anticipated maintenance, repair, and replacement expenses, and the association fees needed for the operating budget and the reserve fund.

20.170.450 Capital Contributions and Warranties

Without limiting the generality of the provisions relating to conditions which may be imposed on a Conditional Use Permit under this Title, the Planning Commission or City Council may make any Conditional Use Permit which may be granted under this Chapter subject to conditions requiring the following:

1. A capital contribution provided by the developer to the association for the deferred maintenance of the common area, and the deferred maintenance or replacement of any of the elements described in the property report, pursuant to Subsection 7 of Section 20.170.220, which are owned or maintained by the association. The information available pursuant to said Subsection 7 of Section 20.170.220 regarding the estimated replacement cost of those elements whose useful life is less than five (5) years may be used in determining the amount of such contribution.
2. A one-year warranty provided free of charge by the developer to the association for those systems described in the property report, pursuant to Subsection 7 of Section 20.170.220, which are owned or maintained by the association. (Such warranty need not cover those systems which may be covered by a substantial capital contribution by the developer for deferred maintenance.)
3. A one-year warranty provided free of charge by the developer to the first purchaser of each unit on any dishwashers, garbage disposals, stoves, refrigerators, hot water

tanks, heating systems, and air conditioners provided therein as of the close of escrow.

20.170.460 Nondiscrimination

Neither the developer, any agents, or assignees shall discriminate in the sale, or in the terms and conditions of sale of any unit against any person or family based upon age or family size, unless family size exceeds the U.S. Department of Housing and Urban Development standard for overcrowding of 1.25 persons per room, or unless it can be demonstrated that the project as designed and built is not suitable for accommodation of certain persons or families because of age or family size. This nondiscrimination provision shall be included in the conditions, covenants, and restrictions for the project.

**Part 5
Other Provisions**

20.170.500 Exemption from Provisions of this Chapter

The provisions of this Chapter shall not apply to either of the following:

1. The conversion to a project pursuant to a PD Permit in a PD District whose PD zoning permits the conversion to a project.
2. The conversion to a project pursuant to a final subdivision map recorded prior to October 3, 1975.

CHAPTER 20.180

MOBILEHOME PARK CONVERSIONS TO RESIDENT OWNERSHIP OR TO ANY OTHER USE

Part 1 General

20.180.010 Purpose of Chapter

- A. This Chapter is enacted to establish requirements and procedures for the control and approval of the conversion of mobilehome parks to community mobilehome park, mobilehome park condominium, and non-mobilehome park uses. By their nature, mobilehome park conversion projects differ specifically from other types of projects. The unique status of such projects tends to magnify the effects associated with higher urban densities to the point where they may lead to conditions of mismanagement, neglect, and blight that impact upon the public health, safety, welfare, and economic prosperity of the City of San Jose. Such projects may conflict with the policies of the City of San Jose to provide a variety of individual choices of tenure, type, price, and location of housing and to maintain the supply of mobilehome housing for low and moderate income persons and families. To ensure that such problems are avoided in both short- and long-term, it is the express intent of the Council of the City of San Jose to treat mobilehome park conversion projects differently from other projects, and to establish rules and standards regulating such projects in the City of San Jose.
- B. This Chapter is enacted to ensure that approval of proposed conversions is consistent with policies and objectives of the City of San Jose, particularly the following:
1. To make adequate provision for the housing needs of all economic segments of the community;
 2. To facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
 3. To provide a reasonable balance between mobilehomes and other types of housing;
 4. To inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase;
 5. To reduce and avoid the displacement of long-term residents, particularly senior citizens, the handicapped, those who are of low income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

20.180.020 Definitions

For the purpose of this Chapter, certain words and phrases are defined in this part and shall be construed as herein set forth unless it shall be apparent from their context that a different meaning is intended.

20.180.030 Association

"Association" means the organization of persons who own a condominium space or have right of exclusive occupancy in a mobilehome park condominium or community mobilehome park.

20.180.040 Common Area

"Common area" means the entire area within a condominium mobilehome park or community mobilehome park, except the separate interests therein.

20.180.050 Common Interest Development

"Common interest development" means a real property development as defined in Civil Code Section 1351(c).

20.180.060 Community Mobilehome Park

"Community mobilehome park" means a common interest development in which an undivided interest in the mobilehome park is coupled with the right of exclusive occupancy of any mobilehome lot located therein.

20.180.070 Condominium

"Condominium" means an estate in real property as defined in Civil Code Section 1351(f).

20.180.080 Condominium Mobilehome Park

"Condominium mobilehome park" means a mobilehome park common interest development consisting of condominiums.

20.180.090 Conversion Project

"Conversion project" means the term used to include mobilehome park conversion to ownership and mobilehome park conversion of use, as defined in this Part.

20.180.100 Developer

"Developer" means the owner or subdivider with a controlling proprietary interest in the proposed mobilehome park conversion project.

20.180.110 Designated Resident Organization

"Designated resident organization" means any association of mobilehome owners and/or mobilehome tenants within a mobilehome park which has, not later than fifteen days after issuance of a notice of intent to convert under Section 20.180.340, provided the owner or manager of the mobilehome park written notice of the following:

1. The name and address of the organization.
2. The name and address of the representative of the organization to whom all notices under this Chapter shall be given.
3. A statement that the organization is interested in purchasing the mobilehome park.

20.180.120 Handicapped Mobilehome Owner

"Handicapped mobilehome owner" means a mobilehome owner who is the primary wage earner of a household, or a single person, with any medically determinable physical or mental impairment limiting his or her mobility, substantially affecting his or her ability to obtain employment, or requiring special care facilities in the mobilehome. "Physical or mental impairment" is an impairment that results from anatomical, physiological or psychological abnormalities which are demonstrable by medically acceptable clinical or laboratory diagnostic techniques.

20.180.130 Low Income

"Low income" means eighty per cent or less of the current median income as established annually by the U. S. Department of Housing and Urban Development (HUD) for the San Jose Standard Metropolitan Statistical Area (SMSA) as adjusted for household size.

20.180.140 Mobilehome

"Mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than one dwelling unit, to be used with or without a foundation system.

20.180.150 Mobilehome Lot

"Mobilehome lot" means a portion of a mobilehome park designated or used for the occupancy of one mobilehome.

20.180.160 Mobilehome Owner

"Mobilehome owner" means a person who has the right to the use of a mobilehome lot within a mobilehome park on which to locate, maintain, and occupy a mobilehome, lot improvements and accessory structures for human habitation, including the use of the services and facilities of the park.

20.180.170 Mobilehome Park

"Mobilehome park" means an area of land where two or more mobilehome lots are rented or leased, or held out for rent or lease, to accommodate mobilehomes used for human habitation.

20.180.180 Mobilehome Park Conversion to Ownership

"Mobilehome park conversion to ownership" means the conversion of an existing mobilehome park containing four or more mobilehome lots to a condominium mobilehome park or to a community mobilehome park.

20.180.190 Mobilehome Park Conversion of Use

"Mobilehome park conversion of use" means the conversion of an existing mobilehome park containing four or more mobilehome lots to any other use, excluding mobilehome park conversion to ownership. The elimination of individual mobilehome leasehold or rental agreement interests in a mobilehome park shall not constitute conversion.

20.180.200 Mobilehome Resident

"Mobilehome resident" means a person, including a mobilehome owner or mobilehome tenant, who occupies a mobilehome.

20.180.210 Mobilehome Tenant

"Mobilehome tenant" means a person who rents or leases a mobilehome from a mobilehome owner.

20.180.220 Organizational Documents

"Organizational documents" include the declaration of covenants, conditions and restrictions, articles of incorporation, bylaws, and any contracts for the maintenance, management or operation of all or any part of a mobilehome park conversion to ownership project.

20.180.230 Recreational Open Space

"Recreational open space" means open space (exclusive of the required front setback area) which shall be used exclusively for leisure and recreational purposes, for the use and enjoyment of occupants (and their guests) within the condominium mobilehome park or community mobilehome park, and to which such occupants (and their guests) shall have the right of use and enjoyment.

Accessory structures such as swimming pools, recreational building, and landscaped areas may be included as open space.

20.180.240 Right of First Refusal

"Right of first refusal" means an irrevocable, nontransferable, and preemptive right to purchase an interest in a common interest development at a price no greater than the price offered to the general public for such interest.

20.180.250 Unjust Eviction

"Unjust eviction" means the termination of tenancy by a mobilehome park landlord for reasons other than those stated in California Civil Code Section 798.56, or its successor.

Part 2 General Requirements

20.180.300 Applicability of Chapter

To achieve the purpose of this Chapter, all conversion projects shall conform to the requirements of this Chapter and all other parts of this Title applicable thereto provided that if there is any conflict between the provisions of this Chapter and such other parts of this Title, the provisions of this Chapter shall control.

20.180.310 Permit Required

Conversion projects shall not be permitted in any district under this Title unless the use is permitted in such district, and then only with a Conditional Use Permit or Planned Development Permit pursuant to this Title.

20.180.320 Special Exemption for Certain Ownership Conversions

Notwithstanding the provisions of Section 20.180.310, no Conditional Use Permit shall be required for a conversion to ownership if an exemption from the permit requirement has been approved by the Director pursuant to the provisions of Sections 20.180.520 and 20.180.530.

20.180.330 Special Noticing and Report Requirements

- A. In addition to the requirements of Section 20.100.190, notice of time, place, and purpose of any public hearing on an application for a Conditional Use Permit or Planned Development Permit for a conversion project shall be given to each mobilehome owner and mobilehome tenant of the proposed project hereinafter identified pursuant to the provisions of this Part.

In addition, a notice shall be posted at all entrances of the proposed project. Each such notice shall be printed in English and Spanish.

- B. Notwithstanding the provisions of Section 20.100.190, the Director shall mail, with postage prepaid, a copy of the staff report on an application for a Conditional Use Permit or Planned Development Permit for a conversion project to each mobilehome owner and mobilehome tenant at least fifteen (15) days before the date set for hearing thereon.
- C. Notwithstanding the preceding provisions of this Section, the failure of the Director or City Clerk to mail any notice or report, or the failure of any resident to receive the same, shall not affect in any way whatsoever the validity of any proceedings taken under this Chapter, nor of any such proceedings, nor prevent the Director, Planning Commission or City Council from proceeding with any hearing at the time and place set therefor.

20.180.340 Notice of Intention to Convert

- A. At least sixty (60) days prior to the date of filing an application for a Conditional Use Permit or Planned Development Permit for a conversion project, the developer shall notify, in writing, each mobilehome owner, mobilehome tenant and designated resident organization of the proposed project of his intention to convert, and thereafter, the developer shall notify each person applying for rental of a mobilehome lot in the proposed project, prior to payment of any rent or deposit, of his intention to convert.
- B. Said notice of intention to convert shall contain a statement that the developer proposes a conversion project, and for that purpose that (1) the developer shall file an application for a Conditional Use Permit or Planned Development Permit with the City of San Jose, and, if applicable, that (2) the developer shall file an application for a final public report with the California Department of Real Estate. Said notice shall also contain a statement of the rights of mobilehome owners, mobilehome tenants and residents set forth in Sections 20.180.370 and 20.180.380, and the rights of designated resident organizations set forth in Section 20.180.390.

20.180.350 Notice of Public Report

Within five (5) days of receipt of the final public report on the proposed project from the California Department of Real Estate (hereinafter "final public report"), if applicable, the developer shall notify each of the mobilehome owners and tenants in the proposed conversion project of the issuance of said report. The notice shall indicate that copies of said report are available on request.

20.180.360 Rights of Mobilehome Owners and Tenants

Each mobilehome owner and mobilehome tenant of a proposed conversion project shall have the following rights from the date of issuance of a notice of intention to convert, pursuant to Section 20.180.340, until the date indicated, if applicable, with respect to his or her tenancy:

1. The right to terminate a lease or rental agreement, without penalty, upon sixty days notice to the landlord.
2. Notwithstanding the provisions of Chapter 17.22 of Title 17 of this Code, no increase in rent until termination of a lease or rental agreement pursuant to Subsection A of this Section or until twelve months after the date of issuance of the final public report, if applicable, or expiration of the mobilehome owner's or mobilehome tenant's lease or rental agreement, whichever is longer.
3. No unjust eviction during tenancy.
4. No coercion or retaliatory action against any such mobilehome owner or mobilehome tenant, including pressure to support, or refrain from opposing, a conversion project.

20.180.370 Rights of Mobilehome Residents

In the case of a mobilehome park conversion to ownership, a mobilehome resident shall have a right of first refusal to purchase a condominium interest or an undivided interest in a community mobilehome park, whichever is applicable. The purchase price shall be no greater than the price offered to the general public for such interest.

20.180.380 Right of Negotiated Purchase

A designated resident organization shall have the right to negotiate for purchase of a mobilehome park for which a conversion project is proposed, if written notice of the exercise of this right is provided to the developer within sixty days of the date of issuance of the notice of intention to convert.

20.180.390 Negotiation for Purchase

If a written notice has been provided to the developer pursuant to Section 20.180.380 and within the time limit specified therein, the following procedure shall be followed:

1. Action on any Conditional Use Permit or Planned Development Permit for the conversion project shall be suspended for one hundred eighty days in order that good faith negotiations can be encouraged and such steps may be taken as are reasonably likely to result in preservation of the mobilehome park and the housing opportunities therein.
2. Within fifteen days of receipt of notice, the developer shall meet with each designated resident organization which has provided such notice in order to explore the possibility of acquisition of the park by such organization.

3. Upon the request to the Director by either the developer or the designated resident organization, a mediation session shall be conducted by a mediator assigned by the City. The mediation shall be conducted within fifteen days of such request.

Part 3

Mobilehome Park Conversions To Ownership

20.180.400 Supplemental Applications

- A. In addition to submittal requirements specified in this Title for Conditional Use Permit application and Planned Development Permit applications, a supplemental application must be submitted for every mobilehome park conversion to ownership and shall include the following:
 1. Satisfactory evidence that, at least sixty days prior to the date of filing such application, each of the mobilehome owners and mobilehome tenants within the proposed project received, pursuant to Section 20.180.340 of this Chapter, written notice of intention to convert; and that thereafter, each person applying for rental of a mobilehome in the proposed project, prior to payment of any rent or deposit, received notice of intention to convert. In addition, satisfactory evidence of the posting of said notice at all entrances of the mobilehome park shall be submitted.
 2. A declaration that, after the date of filing such application, each person applying for rental of a mobilehome or mobilehome lot in the proposed project prior to payment of any rent or deposit, shall receive, pursuant to Section 20.180.340 of this Chapter, written notification of intention to convert.
 3. A boundary map showing the location of all existing easements, structures, mature and/or scenic trees, and other improvements upon the property.
 4. The proposed organizational documents and true copies of any and all documents submitted to the California Department of Real Estate for the proposed conversion project.
 5. The material indicated in Subsection 4 shall be submitted subject to the following provisions:
 - a. The developer shall file with the Director a true copy of any amended, revised or additional documents submitted to the Department of Real Estate prior to the public hearing before the Planning Commission or City Council on a Conditional Use Permit or Planned Development Permit for a conversion project.

- b. The developer shall file with the City a true copy of the final public report within ten days of issuance by the Department of Real Estate.
- 6. A property report describing the condition and estimating the remaining useful life of each of the following elements of each applicable structure and system situate within the project proposed for conversion, excluding mobilehomes: roofs, foundations, exterior paint, paved surfaces, mechanical systems, electrical systems, plumbing systems, sewage systems, swimming pools, sprinkler systems for landscaping, utility delivery systems, central or community heating and air conditioning systems, fire protection systems including any automatic sprinkler systems, alarm systems or standpipe systems, and structural elements. For any element whose useful life is less than five years, a replacement cost estimate shall be provided. Such report shall be prepared by an appropriately licensed contractor or registered civil or structural engineer.
- 7. A statement detailing the current ownership of all improvements and underlying land; the name and address of each present mobilehome park resident within the project and identification of all residents under sixteen years, all residents sixty-two years and over, all residents with minor children, and all handicapped residents; square footage of each mobilehome lot; the current or last rental rate for each mobilehome lot or rented mobilehome and the monthly rental rate for the preceding two years; and the monthly space vacancy over the preceding two years of each mobilehome lot proposed to be converted.
- 8. A timetable for conversion to a condominium mobilehome park or community mobilehome park.
- 9. Such other documents or information as the Director may require to further the purposes of this Chapter.
- 10. A description of how the financial aspects of transfers of mobilehomes and mobilehome lots have been handled for the preceding two years.
- B. Copies of the supplemental application shall be made available upon demand at the on-site office in the proposed project, during regular business hours, to mobilehome owners and mobilehome tenants.

20.180.410 Supplemental Findings for Conditional Use Permit

In addition to the findings required pursuant to Section 20.100.720, a Conditional Use Permit may be issued for a mobilehome park conversion to ownership only if the Planning Commission or City Council finds that the applicant has provided a program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.430 of this Chapter to mitigate the impact of the conversion on displaced mobilehome owners and mobilehome tenants, and that mobilehome residents shall have the right of first refusal specified in Section 20.180.370.

20.180.420 Supplemental Findings for Planned Development Permit

In addition to the findings required pursuant to Section 20.100.940, a Planned Development Permit may be issued for a mobilehome park conversion to ownership only if the Director or Planning Commission finds that the applicant has provided a program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.430 of this Chapter to mitigate the impact of the conversion on displaced mobilehome owners and mobilehome tenants, and that mobilehome residents shall have the right of first refusal specified in Section 20.180.370.

20.180.430 Relocation and Purchase Assistance

Without limiting the generality of the provisions relating to conditions which may be imposed upon a development permit under Chapter 20.100 of this Title, the Director, Planning Commission or City Council shall make any Conditional Use Permit or Planned Development Permit which may be granted under Chapter 20.100 for a mobilehome park conversion to ownership subject to a condition requiring a plan of relocation and purchase assistance for displaced mobilehome owners and mobilehome tenants within the proposed project. Such a plan may include the following:

1. Information to be provided to each mobilehome owner within the proposed project:
 - a. A list of known available mobilehome lots in Santa Clara, Alameda, Santa Cruz and San Mateo counties, including any written commitments from mobilehome park owners willing to accept displaced mobilehome owners.
 - b. Estimates from two moving companies as to the per mile costs of moving mobilehomes of various sizes including, but not limited to, tear down and set up of coaches.
2. Measures to mitigate the adverse impacts of conversion upon mobilehome owners and mobilehome tenants. Such mitigation measures shall benefit mobilehome owners and mobilehome tenants of the mobilehome park from the date the application for the Conditional Use Permit or Planned Development Permit for the proposed conversion project is filed with the City, or from the date on which notices to vacate are mailed to mobilehome owners and tenants, whichever is earlier. Mitigation measures may include but are not limited to:
 - a. Moving expenses for furniture and personal belongings to a new residence in Santa Clara, Alameda, Santa Cruz or San Mateo County.
 - b. Provision for payment of any or all portions of the cost of physically moving a mobilehome to a new site in Santa Clara, Alameda, Santa Cruz or San Mateo county, including, but not limited to, tear down and set up.

- c. For those who move to a multiple or two-family dwelling, provision of a rent subsidy for up to twenty-four months. Rent shall not exceed the fair market rent for new construction and substantial rehabilitation for the Santa Clara County area as established by the U. S. Department of Housing and Urban Development. "Rent subsidy" is the difference between the rent of the multiple or two-family dwelling and the rent of the mobilehome space or mobilehome on the date of the notice of intention to convert.
- c. Payment of the difference of rent between the old and new mobilehome park spaces for up to twenty-four months.
- d. Purchase of the mobilehome at its in-place value, as determined by a tested, certified, and designated member of a nationally recognized appraisal association. "In-place value" includes the value of any accessory structures whose installation has been approved by mobilehome park management, such as a porch or a carport. the appraisal is to be made no more than sixty days prior to its submittal.
- e. Extended leases and rental agreements (commencing at the conclusion of the right of continued tenancy period under Subsection x of Section 20.180.360) for mobilehome owners and mobilehome tenants who are handicapped, or aged sixty-two or over, and/or of low income, and/or for mobilehome owners and mobilehome tenants with minor children. No mobilehome owner or mobilehome tenant covered by any such extended lease or rental agreement shall be unjustly evicted. "Extended lease or rental agreement" is a lease or rental agreement whose expiration date is extended at least ninety days.
- f. A provision for setting aside a certain number of rental spaces for mobilehome owners and mobilehome tenants who are handicapped, and/or aged sixty-two or over, and/or low income, and/or for mobilehome owners and mobilehome tenants with minor children.

20.180.440 Development Standards

To achieve the purposes of this Chapter, mobilehome park conversion to ownership projects shall conform to the following development standards:

- 1. The off-street parking requirements shall be one and one-half parking spaces for each mobilehome lot. One such space per mobilehome lot shall be assigned.
- 2. The consumption of gas and electricity within each mobilehome lot shall be separately metered so that the owner can be billed separately for each utility. A water shut-off valve shall be provided for each mobilehome lot or for each plumbing fixture.

3. Each mobilehome lot shall have its own panel board for all electrical circuits which serve the mobilehome.

20.180.450 Findings for Noncompliance with Development Standards

An application for a Conditional Use Permit or Planned Development Permit for a mobilehome conversion project under this Part which does not comply with all of the applicable development standards stated in Section 20.180.440 may, but shall not under any circumstances be required to be approved, and a Conditional Use Permit may be issued therefor if the Director, Planning Commission or City Council finds that:

1. Strict application of the development standards set forth in said Section 20.180.440 would create an unreasonable economic hardship due to (but not limited to) the size, shape, location or surroundings of the subject property or the buildings situated thereon, but expressly excluding consideration of personal circumstances of the developer; and
2. A Conditional Use Permit or Planned Development Permit for the conversion project which is not in conformance with such development standards, subject to such permit conditions as may be imposed thereon:
 - a. Will provide for substantial compliance with such development standards; and
 - b. Will incorporate mitigating features which tend to further the purposes of this Chapter.

20.180.460 Code Compliance

The proposed conversion project shall comply with all applicable City, County, and State codes and regulations regarding health and safety. If said project does not comply with said codes and said regulations at the time of approval of a Conditional Use Permit or Planned Development permit for the project, a Code compliance bond shall be submitted as required in Section 20.180.470.

20.180.470 Code Compliance Bond

If a proposed mobilehome conversion project does not comply with provisions of Section 20.180.460 and/or the Building Official identifies items to be corrected pursuant to said Section, any Conditional Use Permit or Planned Development Permit issued pursuant to this Chapter shall require the developer to furnish a bond in an amount equal to the reasonable estimated cost of Code compliance. Said bond shall run in favor of individual purchasers and the association. Said bond shall provide for reasonable attorney's fees in the event of default by the principal.

20.180.480 Effectiveness of Permit

A Conditional Use Permit or Planned Development Permit issued under this Chapter for a mobilehome conversion project may be issued prior to the time compliance has been made with the said codes and said regulations as hereinabove provided in Section 20.180.460, but such Permit shall not become effective unless and until compliance has been made as provided in each Permit.

20.180.490 Recreational Open Space

Without limiting the generality of the provisions relating to conditions which may be imposed upon a development permit issued under Chapter 20.100 of this Title, the Director, Planning Commission or City Council may make any Conditional use Permit or Planned Development Permit for conversion to a mobilehome conversion project subject to a condition requiring recreational open space in a manner and to the extent it deems reasonably necessary to achieve the purposes of this Title.

20.180.500 Documents Furnished to Prospective Purchasers

The developer shall furnish each prospective purchaser of an interest in a condominium mobilehome park or community mobilehome park pursuant to a conversion project a true copy of the Conditional Use Permit or Planned Development Permit issued under this Chapter and of each document required, by State law and the regulations of the California Department of Real Estate, to be provided to such prospective purchaser.

20.180.510 Capital Contributions and Warranties

Without limiting the generality of the provisions relating to conditions which may be imposed upon a Conditional Use Permit or Planned Development Permit under Chapter 20.100 of this Title, the Director, Planning Commission or City Council may make any Conditional Use Permit or Planned Development Permit which may be granted under this Part subject to conditions requiring the following:

1. A capital contribution provided by the developer to the association for the deferred maintenance of the common area, and the deferred maintenance or replacement of any of the elements described in the property report which are owned or maintained by the association, pursuant to Subsection 6 of Section 20.180.400. Information available pursuant to Subsection 6 of said Section regarding the estimated replacement cost of those elements whose useful life is less than five (5) years may be used in determining the amount of such contribution.
2. A one-year warranty provided free of charge by the developer to the association for those systems described in the property report, as hereinabove specified, which are owned or maintained by the association. Such warranty need not cover those

systems which may be covered by a substantial capital contribution by the developer for deferred maintenance.

20.180.520 Exemption from Permit Requirement - Petition

A developer or designated resident organization may petition the Director for exemption from the requirement for a Conditional Use Permit under Section 20.180.300 if a proposed mobilehome park conversion to ownership would result in at least sixty-seven percent (67%) of the mobilehome lots being acquired by residents of the park. Such a petition shall be filed on a form prescribed by the Director, shall be accompanied by the fee established by Council resolution, and shall include the following:

1. Evidence satisfactory to the Director that:
 - a. At least sixty (60) days prior to the date of filing such application, each of the mobilehome owners and mobilehome tenants within the proposed project received, pursuant to Section 20.180.340 of this Chapter, written notice of intention to convert.
 - b. Thereafter, each person applying for rental of a mobilehome lot or mobilehome in the proposed project, prior to payment of any rent or deposit, received notice of intention to convert.
 - c. Said notice was posted at all entrances of the mobilehome park as required under this Chapter.
- 2.. A declaration that, after the date of filing such application, each person applying for rental of a mobilehome or mobilehome lot in the proposed project, prior to payment of any rent or deposit, shall receive, pursuant to Section 20.180.340 of this Chapter, written notice of intention to convert.
3. A statement detailing the current ownership of all improvements and underlying land; the name and address of each present mobilehome park resident of the project, and identification of all residents sixty-two years and over, all residents with minor children, and all handicapped residents; square footage of each mobilehome lot; the current or last rental rate for each mobilehome lot or rented mobilehome and the monthly rental rate for the preceding two years; and the monthly space vacancy over the preceding two years of each mobilehome lot proposed to be converted.
4. A timetable for conversion to a condominium mobilehome park or community mobilehome park.
5. Evidence satisfactory to the Director that the residents of at least sixty-seven percent (67%) of the mobilehome lots in the park intend to purchase an ownership interest in

the mobilehome park and have waived any rights to relocation assistance which would otherwise exist under this Chapter.

6. A plan of relocation and purchase assistance for displaced mobilehome owners and mobilehome tenants within the park excluding those who have waived their rights to assistance under Subsection 5 of this Section.
7. Such other documents or information as the Director may require to further the purposes of this Chapter.

20.180.530 Exemption from Permit Requirement - Approval

A petition for exemption from the requirement to obtain a Conditional Use Permit for a conversion to ownership shall be approved by the Director if all of the information required under Section 20.180.520 has been submitted and the Director makes all of the following findings:

1. At least sixty-seven percent (67%) of the present mobilehome park residents have filed written notice of intent to purchase an ownership interest in the mobilehome park when it is converted to a common interest development; and
2. Each resident intending to purchase an ownership interest in the mobilehome park has waived any rights to relocation and purchase assistance under this Chapter; and
3. A satisfactory plan of relocation and purchase assistance has been developed for all residents otherwise entitled to assistance under this Chapter. A plan is satisfactory if:
 - a. All residents have consented to the plan in writing, or
 - b. Any resident being involuntarily displaced by the conversion to ownership and who has not consented to the plan, will be provided, at a minimum, with:
 - i. Moving expenses for furniture and personal belongings to a new residence in Santa Clara, Alameda, Santa Cruz or San Mateo County; and
 - ii. For those who will move their mobilehome to another location:
 1. Payment of the cost of physically moving the mobilehome to a new site in Santa Clara, Alameda, Santa Cruz or San Mateo County, including but not limited to tear down and set up; and
 2. Payment of the difference of rent between the old and new mobilehome park spaces for twenty-four (24) months; and

- iii. For those who move to a multiple or two-family dwelling, provision of a rent subsidy for up to twenty-four (24) months. Rent shall not exceed the fair market rent for new construction and substantial rehabilitation for the Santa Clara County area as established by the U. S. Department of Housing and Urban Development. "Rent subsidy" is the difference between the rent of the multiple or two-family dwelling and the rent of the mobilehome space or mobilehome on the date of the notice of intention to convert; and
- iv. For mobilehome owners and mobilehome tenants who are handicapped, aged 62 or over, or of low income, and for mobilehome owners and mobilehome tenants with minor children, an offer of a lease or rental agreement for their current mobilehome lot. Such offer for lease or rental shall be for a period of at least one (1) year.

Part 4

Mobilehome Park Conversions Of Use

20.180.600 Supplemental Application

- A. In addition to submittal requirements specified in Chapter 20.100 of this Title for Conditional Use Permit and Planned Development Permit applications, a supplemental application must be submitted for a mobilehome park conversion of use, and shall include the following:
 - 1. Satisfactory evidence that, at least sixty days prior to the date of filing such application, each mobilehome owner and mobilehome tenant within the proposed project received, pursuant to Section 20.180.340 of this Chapter, written notice of intention to convert; and that thereafter, each person applying for rental of a mobilehome or mobilehome lot in the proposed project, prior to payment of any rent or deposit, received notice of intention to convert. In addition, satisfactory evidence of the posting of said notice at all entrances to the mobilehome park shall be submitted.
 - 2. A declaration that, after the date of filing such application, each person applying for rental of a mobilehome or mobilehome lot in the proposed project prior to payment of any rent or deposit, shall receive, pursuant to Section 20.180.340 of this Chapter, written notification of intention to convert.
 - 3. A statement detailing the current ownership of all improvements and underlying land; the name and address of each present mobilehome park resident within the project and identification of all residents under sixteen years, all residents sixty-two years and over, all residents with minor children, and all handicapped residents;

square footage of each mobilehome lot; the current or last rental rate for each mobilehome lot and rental rate for the preceding two years; and the monthly space vacancy over the preceding two years of each mobilehome lot proposed to be converted.

4. A timetable for conversion of the mobilehome park use.
 5. The appraised market value of each mobilehome lot and the in-place value of each mobilehome in the park. The appraisal is to be made no more than ninety days prior to submittal of the supplemental application. The appraiser shall be a tested, certified, and designated member of a nationally recognized appraisal association; shall be selected by the developer and/or association; and shall be paid by the developer and/or association to make the appraisal.
 6. A description of how the financial aspects of transfers of mobilehomes and mobilehome lots have been handled for the preceding two years.
- B. Copies of the supplemental application shall be made available upon demand at the on-site office in the proposed project, during regular business hours, to mobilehome owners and mobilehome tenants.

20.180.610 Supplemental Findings for Conditional Use Permits

In addition to the findings required pursuant to Section 20.100.720, a Conditional Use Permit may be issued for a mobilehome park conversion of use only if the Planning Commission or City Council finds that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of this Chapter to mitigate the conversion on displaced mobilehome owners and mobilehome tenants.

20.180.620 Supplemental Findings for Planned Development Permit

In addition to the findings required pursuant to Section 20.100.940, a Planned Development Permit may be issued for a mobilehome park conversion of use only if the Director or Planning Commission finds that the applicant has provided a satisfactory program of relocation, rental assistance, purchase assistance or other assistance pursuant to Section 20.180.630 of this Chapter to mitigate the conversion on displaced mobilehome owners and mobilehome tenants.

20.180.630 Relocation and Purchase Assistance

Without limiting the generality of the provisions relating to conditions which may be imposed upon a development permit under Chapter 20.100 of this Title, the Director, Planning Commission or the City Council shall make any Conditional Use Permit or Planned Development Permit which may be granted under this Chapter for mobilehome park conversion of use subject to a condition requiring a plan of relocation and purchase assistance for mobilehome owners and mobilehome tenants within the proposed project. Such a plan may include the following:

1. Information to be provided to each mobilehome owner within the proposed project:
 - a. A list of known available mobilehome lots in Santa Clara, Alameda, Santa Cruz and San Mateo counties, including any written commitments from mobilehome park owners willing to accept displaced mobilehome owners.
 - b. Estimates from two moving companies as to the per mile costs of moving mobilehomes of various sizes including, but not limited to, tear down and set up of coaches.
2. Measures to mitigate the adverse impacts of conversion upon mobilehome owners and mobilehome tenants. Such mitigation measures shall benefit mobilehome owners and mobilehome tenants of the mobilehome park from the date the application for the Conditional Use Permit or Planned Development Permit for the proposed conversion project is filed with the City, or from the date on which notices to vacate are mailed to mobilehome owners and mobilehome tenants, whichever is earlier. Mitigation measures may include but are not limited to:
 - a. Moving expenses for furniture and personal belongings to a new residence in Santa Clara, Alameda, Santa Cruz or San Mateo County.
 - b. Provision for payment of any or all portions of the cost of physically moving a mobilehome to a new site in Santa Clara, Alameda, Santa Cruz or San Mateo County, including, but not limited to, tear down and set up.
 - c. For those who move to a multiple or a two-family dwelling, provision of a rent subsidy for up to twenty-four months. Rent shall not exceed the fair market rent for new construction and substantial rehabilitation for the Santa Clara County area as established by the U. S. Department of Housing and Urban Development. "Rent subsidy" is the difference between the rent of the multiple or two-family dwelling and the rent of the mobilehome space or mobilehome on the date of the notice to convert.
 - d. Payment of the difference of rent between the old and new mobilehome park spaces for up to twenty-four months.
 - e. Purchase of the mobilehome at its in-place value, as determined by a tested, certified, and designated member of a nationally recognized appraisal association. In-place value includes the value of any accessory structures whose installation has been approved by mobilehome park management, such as a porch or a carport. The appraisal is to be made no more than sixty days prior to its submittal.

- f. Extended leases or rental agreements (commencing at the conclusion of the right of continued tenancy period under Subdivision 3 of Section 20.180.360) for mobilehome owners and mobilehome tenants who are handicapped, and/or aged sixty-two or over, and/or of low income, and/or for mobilehome owners and mobilehome tenants with minor children. No mobilehome owner or mobilehome tenant covered by any such extended lease or rental agreement shall be unjustly evicted. "Extended lease or rental agreement" is a lease or rental agreement whose expiration date is extended at least ninety days.

CHAPTER 20.200

DEFINITIONS

20.200.010 General Definitions

For the purposes of this Title, certain words and phrases are defined and certain provisions shall be construed as set forth in this Part, unless it is apparent from the context that a different meaning is intended.

20.200.020 Accessory Building

- A. “Accessory building” is a separate and subordinate building the use of which is purely incidental to that of the main building and which shall not contain living space, sleeping quarters, or storage space for commercial vehicles requiring additional registration fees as provided for in the State Vehicle Code. An accessory building shall be limited to two (2) plumbing connections to serve an appliance or fixture, and unconditioned space as defined in Title 24 of the San Jose Municipal Code.
- B. Any improvement to real property shall be considered separate from the main building if it does not meet the following criteria:
 - 1. The structure shares a common wall with the main building, or
 - 2. The structure shares an integral roof structure having the same framing system and roof covering as the main building and is separated from the main structure by no more than ten (10) feet and any given point.

20.200.030 Accessory Structure

“Accessory structure” is a separate and subordinate structure which is open in nature and the use of which is purely incidental to that of the main building. Examples of such structure include but are not limited to fences seven (7) feet or less in height, gazebos, arbors, trellises, and pergolas.

20.200.040 Activity

"Activity" includes, but is not limited to:

- 1. The use or storage in any business of any fixed or movable equipment,
- 2. The use, storage, display, sale, delivery, offering for sale, production, or consumption in any business, or by any business invitee on the premises of the business, of any goods, wares, merchandise, products, or foods or,

3. The performance in any business of any work or services.

20.200.050 Adult Book/Video Store

"Adult book/video store" is a building or portion thereof used by an establishment having as a substantial or significant portion of its stock in trade for sale to the public or certain members thereof, including but not limited to, books, magazines, other publications, videos, novelties, and which are distinguished or characterized by their emphasis on matter depicting, describing, relating to or used in "specified sexual activities" or "specified anatomical areas," as hereinafter defined,

20.200.060 Adult Motion Picture Theater

"Adult motion picture theater" is a building or portion thereof or area, open or enclosed, used for the presentation of motion pictures distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as hereinafter defined, for observation by patrons or customers.

20.200.070 Adult Entertainment Establishment

"Adult entertainment establishment" is a building or portion thereof or area used for activities, performances, exhibitions, viewings and encounters featuring topless or bottomless dancers, strippers, male or female impersonators or similar entertainers for patrons or customers.

20.200.080 Alcoholic Beverage

"Alcoholic beverage" shall have the same meaning as is set forth for said term in Section 23004 of the Business and Professions Code of the State of California.

20.200.090 Alley

"Alley" is a way which affords only a secondary means of access to abutting property.

20.200.100 Amusement Game Arcade

"Amusement game arcade" is a building or portion thereof having within its premises:

1. Ten (10) or more amusement game devices, or
2. Fifteen percent (15%) of the net floor area of the primary use or nine (9) or fewer amusement game devices when not utilized in conjunction with a primary commercial use which is permitted by right or as a conditional use. Net floor area for the purpose of this definition is that area available for customer use.

20.200.110 Amusement Game Device

- A. "Amusement game device" is any electrical or mechanical apparatus or device for which payment is charged for use as a game or contest, including video games and pinball machines, but not including:
1. Vending machines;
 2. Juke boxes;
 3. Pool tables and billiard tables as those terms are used in Section 6.56.010 of Title 6; and
 4. Peep show devices as defined in Section 6.80.010 of Chapter 6.80 of Title 6.
- B. The use of an amusement game device shall not be deemed to be "active and passive entertainment" as that term is used in this Title.

20.200.115 Base Load Power Plant

A "Base Load Power Plant" is an electrical power generation facility that, regardless of fuel or energy source, is operated by a public utility or independent power producer and whose primary function is the provision of electricity to the electrical distribution system or transmission grid.

20.200.120 Basement

A "basement" (or cellar) is that portion of a building below grade situate between grade and the upper surface of the floor next above, except that if said upper surface of the floor next above is more than six (6) feet above grade, such portion shall be deemed to be a story of the building rather than a cellar or basement.

20.200.130 Bed and Breakfast Inn

"Bed and breakfast inn" is a commercial-residential use of an existing, owner-occupied residential structure of historical and/or architectural significance, providing visitor lodging on a short-term basis for a limited number of paying guests. A bed and breakfast inn must meet all the criteria set forth in Part 2 of Chapter 20.80.

20.200.140 Billiard Room

"Billiard Room" is synonymous with "poolroom" for purposes of this Title.

20.200.150 Buildable Area

“Buildable area” is the area of a lot exclusive of the required setback areas.

20.200.160 Building

“Building” is any structure built for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind. “Building” includes the word structure.

20.200.170 Business Support Use

“Business support uses” are commercial uses intended to support the business needs in the area. Such uses include but are not limited to copy shops, mail centers, employment agencies, small business machine repair, and technical support centers.

20.200.180 Catalogue and Mail Order

A business establishment that is primarily organized to promote, receive, and fill requests for merchandise or services through the mail.

20.200.190 Child Day Care Center

“Child day care center” is any child day care facility, including a preschool, other than a family day care home, which provides non-medical care to children under eighteen (18) years of age in need of personal services, supervision, or assistance essential for sustaining the activities of daily living or for the protection of the individual on less than a 24-hour basis.

20.200.195 Co-generation Facility

A “Co-generation Facility” means an electrical power generation facility that utilizes waste heat to generate electricity to supply some of the needs of an individual building or group of buildings. Electricity generated by a co-generation facility may be sold back to the electrical distribution system or transmission grid or to other end-users.

20.200.200 Collection Facility

A “collection facility” is a facility for the deposit or drop-off of recyclable materials. Such a facility does not do processing except limited bailing, batching, and sorting of materials other than glass. Collection facilities include the following:

1. A "small collection facility" is a facility that occupies an area of no more than five hundred (500) square feet and that accepts by donation, redemption, or purchase beverage containers with California Redemption Value, metals, paper, and other recyclable materials, as defined in this Chapter, except for motor oil and other

hazardous materials. Acceptable recyclable materials are delivered to the site by the general public; and, such a facility does not accept materials from commercial vehicles. A small collection facility performs minimal preparation of recyclable material prior to transfer to a processing facility. Preparation may include baling, can flattening, or like methods use to reduce the mass of recyclables to facilitate efficient transport of materials.

A small collection facility may include mobile recycling units, unattended containers, boxes, cans, kiosk-type units, bulk reverse vending machines, roll-off bins, and/or other containers or receptacles. Such a facility also may include a properly licensed automobile, truck, trailer, or van.

2. A "large collection facility" has all the characteristics of a small collection facility but may occupy an area greater than five hundred (500) square feet.

20.200.210 Common Carrier

"Common carrier" is a person or company in the business of transporting passengers or goods for hire.

20.200.220 Common Carrier Depot

A "common carrier depot" is a facility which is served by one or more common carriers and which is an intermediate destination of goods or passengers, and at which facility, goods or passengers are transferred from one conveyance to another to resume their journeys, and which may include provision for the layover of such goods or passengers.

20.200.230 Common Private Open Space

"Common private open space" means lands which are privately owned, developed, and maintained for the recreational use and enjoyment in common by all of the owners (or occupants) of the lots into which the subject property is subdivided, and to which each of such owners (or occupants) has the same right of use and enjoyment.

20.200.240 Commercial Composting Facility

A "commercial composting facility" is a facility where waste organic matter, including leaves, brush, and other organic waste, decomposes in a controlled environment and is processed for reuse.

20.200.250 Convalescent Hospital

"Convalescent hospital" is an establishment where for a minimum of forty hours per week, inpatient nursing care including bed care is provided and where other medical care may be provided for persons who are ill, injured, or infirm (physically or mentally), but excluding persons with communicable disease. No outpatient care shall be provided.

20.200.260 Corner Triangle

"Corner triangle" is the triangular area formed by the two street lot lines of a corner lot and their projection and a line connecting them at points forty-five feet measured at the outer edge of the curb L from the intersection of the projected lot lines measured at the outer edge of the curb.

20.200.270 Development Permit

"Development Permit" means any Permit issued pursuant to Chapter 20.100 of this Title.

20.200.280 Director

"Director" as used in this Title and not otherwise identified means the Director of Planning, Building and Code Enforcement.

20.200.290 Downtown Core Area

"Downtown core area" means that area delineated as such on the Land Use/Transportation Diagram of the General Plan of the City of San Jose as amended.

20.200.300 Drinking Establishment

A "drinking establishment" is any place where alcohol is sold, offered for sale, or served to patrons independent of any other activity, including but not limited to eating, entertainment, karaoke, etc.

20.200.310 Drive Through Uses

A "drive through use" is any use, except gasoline service stations, which are designed or operated to allow patrons, while outdoors on the premises in motor vehicles, to order, request, exchange, donate or receive goods, wares, merchandise, products, foods, beverages, or services.

20.200.320 Dwelling, One-Family

"Dwelling, one-family" or "one-family dwelling" is a detached building of permanent character placed in a permanent location which is designed or used for residential occupancy by one-family. A single mobilehome on a foundation system on a single lot is included within this definition. All rooms within a one-family dwelling must be integral to each other.

20.200.330 Dwelling, Two-Family

"Dwelling, two-family" and "two-family dwelling" is a building of permanent character, placed in a permanent location, which is occupied or designed, intended or arranged for occupancy, for residential purposes by two families living independently of each other, and which, in addition, is not occupied or used for any purpose other than as a residence for not more than two families living

independently of each other or as a residence for said two families, living therein as aforesaid, and not more than two guests of each such family if the rental of rooms by each such family to its guests is clearly secondary and incidental to the occupancy of said building by such family as its residence.

20.200.340 Dwelling, Multiple

"Dwelling, multiple" is a building or portion thereof used or designed as a residence for three or more families living independently of each other, and doing their own cooking in said building.

20.200.350 Entertainment Establishment

"Entertainment establishment" is any establishment (indoors or outdoors) where entertainment, either passive or active, is provided for the pleasure of the patrons, either independent or in conjunction with any other use. Such entertainment includes but is not limited to, vocal and instrumental music, dancing, karaoke, comedy and acting.

20.200.360 Emergency Residential Shelter

An "emergency residential shelter" is a building where emergency temporary lodging is provided to persons who are homeless, and where on-site supervision is provided whenever such shelter is occupied.

20.200.370 Family

"Family" is one or more persons occupying a premises and living as a single housekeeping unit.

20.200.380 Family Day Care Home

"Family day care home" is any residential unit which regularly provides care, protection and supervision to fourteen (14) or fewer children, or as set forth by the State, as an incident to the use of the unit by a family as its residence, for periods of less than twenty-four hours per day.

20.200.390 Fence

"Fence" is any fence, hedge, wall, or other structure in the nature of a fence.

20.200.400 Flag Lot

"Flag lot" is an interior lot accessed by a corridor having a street frontage of less than twenty-seven feet.

20.200.410 Fixed-Base Host

"Fixed-base host" means any permitted use, other than a residential use, located within a permitted building or structure on the same parcel or lot and which shares parking, sanitary facilities, trash disposal and other support facilities with a vending facility.

20.200.415 Food and Goods Distribution Facility

A "food and goods distribution facility" is a facility that distributes food or goods in the form of meals, groceries, clothing, or other household items directly to a citizen in need. No compensation is accepted by a food and goods distribution facility or its staff for the distribution of said food or goods.

20.200.420 Foundation System

"Foundation system" is an assembly of materials constructed below, or partially below grade, not intended to be removed from its installation site, which is designed to support the structure and engineered to resist the imposition of external natural forces.

20.200.430 Frontage

"Frontage" is the portion of all property abutting on a side of a street between two intersecting or terminating streets, or at the end of such street if it does not meet another.

20.200.440 Gasoline Service Station

"Gasoline service station" is a business establishment operated at a fixed location at which gasoline is offered for sale at retail, and, when sold, is dispensed from fixed tanks by pump, or otherwise, directly into the fuel system storage tanks of automobiles or other motor vehicles.

20.200.450 Guest

"Guest" is any person who rents a room for sleeping purposes.

20.200.460 Guest Room

"Guest room" is a room occupied or intended, arranged, or designed for occupation by one or more guests.

20.200.470 Guesthouse

"Guesthouse" means a building which is designed or used to accommodate a maximum of ten (10) guests, where Guestrooms are provided for a fixed period of at least thirty (30) consecutive calendar days, in exchange for an agreed payment of a fixed amount of money or other compensation based on the period of occupancy.

20.200.480 Guesthouse, Large

A "large guesthouse" is a residential use which has all of the characteristics of a guesthouse, and which accommodates eleven (11) or more guests.

20.200.500 Hazardous Waste Facility

A "hazardous waste facility" means a site, including all contiguous land and structures, used for the treatment, transfer, storage, resource recovery, or recycling of hazardous waste, as defined in California Health and Safety Code Section 25117.

20.200.510 Height

The "height" of a structure at any point is the vertical distance between its top surface and the "grade" immediately below it. For purposes of this Section, "grade" shall be determined as follows:

1. For any point on the top surface of a structure, "grade" is the intersection of the vertical line, through said point, with a straight line which passes through:
 - a. The vertical line, and
 - b. The nearest point of the property line nearest to the vertical line, and
 - c. A point on a second property line opposite to the first property line.

Said property lines shall be property lines of the same lot on which the structure being measured is constructed or installed and said property lines shall be assumed to lie on the surface of the finished ground elevation.

2. When the point described in Subsection 1.b or in Subsection 1.c of this Section is more than seventy-five (75) feet from the nearest exterior surface of the structure, such point shall be moved along the same bearing, as was established pursuant to Subsection 1 of this section, to a point at finished ground elevation and seventy-five (75) feet from said exterior surface.
3. When there is an on or off-site retaining wall located within six (6) inches of the property line at the point established by Subsection 1.b or by Subsection 1.c, said point shall be moved along the same bearing, as was established pursuant to Subsection 1, to a point at finished ground elevation and twelve (12) inches off-site.

20.200.520 Home Occupation

A "home occupation" is a business or commercial activity which is conducted from or in a one-family dwelling, two-family dwelling, multiple dwelling, or mobilehome and which is clearly incidental to the use of the dwelling as a residence and which conforms to the criteria as set forth in Part 9 of Chapter 20.80 of this Title.

20.200.530 Hospital

A "hospital" is an institution that maintains and operates facilities for inpatient medical care, including x-ray, laboratory and surgical, for the diagnosis, care and treatment of human illness, injury and disease (physical or mental). Outpatient care may also be provided.

20.200.540 Hotel or Motel

A "hotel" or motel is a commercial use with the following characteristics:

1. Use of a guest room is based on an agreed payment of a fixed amount of money in exchange for use of the guest room for a fixed period of time.
2. Meals may be provided with the lodging, but separate cooking facilities may be provided in no more than twenty-five percent (25%) of the guest rooms.
3. No residential care or residential service as defined in Sections 20.200.1030 and 20.200.1040, respectively, may be provided.
4. There are accommodations for one or more of the following:
 - a. Four (4) or more guests whose fixed payment is for a period of time not to exceed twenty-nine (29) days.
 - b. Four or more guests and there is an external entryway to four (4) or more guest rooms.
 - c. Thirteen (13) or more guests, or eleven (11) or more guest rooms, regardless of the period of payment.

20.200.550 Household Appliance, Small

A "small household appliance" is a device or instrument such as a toaster, a television or a vacuum cleaner, which is:

1. Carried by hand;
2. Commonly used in a dwelling; and

3. A finished good not a component part, such as a motor or a thermostat, of another finished good.

20.200.555 Impervious Surface

An “impervious surface” is any surface, on or above ground, that prevents the infiltration or passage of water into the soil. Impervious surfaces include, but are not limited to, non-absorbent rooftops, paved or covered patios, driveways, parking lots, paved walkways, compacted soil or rock, and streets.

20.200.560 Indoors

"Indoors" means within a building which has a roof composed of weatherproof material and which is enclosed on at least sixty-five percent (65%) of its perimeter with exterior walls composed of weatherproof materials.

20.200.570 Industrial Services

“Industrial Services” includes establishments providing industrial services to individuals or businesses. This classification includes dry cleaning plants; metal, machine and welding shops; cabinetry and woodworking shops; furniture upholstery shops; and similar business engagements in custom fabrication and repair.

20.200.575 Information Center

"Information Center" is a building or portion thereof or place where the primary purpose is providing information to the general public. Information may be communicated through a variety of means, including, but not limited to books, papers, audio, video, three dimensional models, etc for use either on or off the premises. The information may be offered free of charge or for sale. An information center is distinguished from a retail business in that the primary use is the dissemination of information, rather than the sale of retail items or services.

20.200.580 Key Lot

"Key lot" is the first interior lot abutting the rear of a corner lot. The front lot line of the key lot is a continuation of the side lot line of the corner lot, excluding any lot which is separated from a corner lot by an alley.

20.200.590 Kitchen

"Kitchen" is any room used or intended or designed to be used, for cooking and preparing food.

20.200.600 Laboratory

“Laboratory” is an establishment or facility engaged in routine testing or analysis of medical specimens or chemical compounds; performing limited laboratory processing procedures, such as the small scale production of custom-made or custom-fitted products, such as eyeglasses, dentures and prostheses; and other similar activities. This use excludes establishments where product design and testing, industrial or scientific research, or prototype development is a primary activity.

20.200.610 Legal Nonconforming Use

Any lawful use of land or structure, which ceases to conform to the provisions of this Title upon a rezoning or annexation, or because of changes in the regulations under this Title, shall be deemed to be a legal nonconforming use.

20.200.620 Legal Nonconforming Structure

A legally constructed building or structure that met all applicable development regulations at the time of construction that does not meet the development regulations, including setbacks, height, floor area ratio, and parking set out for the zone in which such building or structure is located shall be deemed to be a legal nonconforming structure.

20.200.630 Live/Work Uses

“Live/Work” means a residential occupancy, by a single housekeeping unit, of one or more rooms or floors in a building which includes:

1. Cooking space and sanitary facilities in conformance with City building standards; and
2. Adequate working space accessible from the living area, reserved for, and regularly used by, one or more persons residing therein.

20.200.640 Living/Habitable Space

A room designed for living, sleeping, eating or food preparation, including but not limited to a den, study, library, home office, sewing room or recreational room.

20.200.650 Living Unit

"Living unit" means a building or a portion of a building planned, designed, or used as a residence for one- family only living independently of other families or persons and having its own bathroom and housekeeping facilities included in said unit; for example, a mobilehome, a one-family

dwelling, each unit of a two-family dwelling, each unit of a multiple dwelling, and each apartment in an apartment house or other establishment, shall be deemed to be a separate "living unit".

20.200.660 Lot

"Lot" is a contiguous unit of land which may be lawfully sold as a separate parcel in conformity with the provisions of Title 19 of this Code.

20.200.670 Lot, Corner

A corner lot is a lot having at least two frontages on intersecting streets; and

1. A residential corner lot is a lot in a residential district on a corner fronting not more than one hundred twenty (120) feet on one street and not more than one hundred twenty (120) feet on another. If both of the street frontages exceed the specified frontage widths, the lot is considered to have two front property lines.
2. A commercial corner lot is a lot in a commercial zoning district on a corner fronting not more than one hundred fifty (150) feet on one street and not more than one hundred fifty 150 feet on another. If both of the street frontages exceed the specified frontage width, the lot is considered to have two front property lines.

20.200.680 Lot, Interior

"Lot, interior" is a lot other than a corner lot.

20.200.690 Lot, Through

"Lot, through" is a lot having frontage on two parallel or approximately parallel streets.

20.200.700 Lot Line

"Lot line" is defined to include:

1. "Front lot line" is the boundary line of a lot which abuts a public street.
2. "Front lot line of a residentially zoned corner lot" is the narrower lot line abutting a public street.
3. "Side lot line" is the boundary line of a lot which intersects the front lot line, the rear lot line, and any other side lot line.
4. "Side corner lot line of a residentially zoned corner lot" is the longer of the two boundary lines abutting a public street.

5. "Rear lot line" is the boundary line of a lot which is opposite, and does not intersect, the front lot line.

20.200.710 Manufacturing and Assembly, Light.

“Light Manufacturing and Assembly” means product assembling or mixing, where previously processed components or manufactured parts produced off-site are fitted together into a complete machine or blended together to form a non-combustible and non-explosive product. Product packaging, including bottling, canning, packing, wrapping, and boxing of products assembled or manufactured off-site. The assembling or packaging shall not produce noise, vibration, hazardous waste materials, or particulate that create significant negative impacts to adjacent land uses. Odors produced on-site shall not negatively affect other businesses or properties in the area.

Examples of assembling include, but are not limited to, the production of the following: clothes; furniture (where wood is milled off-site); pharmaceuticals; hardware; toys; mechanical components; electric or electronic components; small vehicle assembly; and computer software. Examples of packaging include facilities for bottling beverages, canning and wrapping foods, and boxing electronic components.

20.200.720 Manufacturing and Assembly, Medium.

“Medium Manufacturing and Assembly” means manufacturing of products from processed or unprocessed raw materials, where the finished product is non-combustible and non-explosive. This manufacturing may produce noise, vibrations, illumination, or particulate that is perceptible to adjacent land users, but is not offensive or obnoxious. Odors produced on-site shall not have a material negative effect on other businesses or properties in the area. This use shall include any packaging of the product being manufactured on-site.

Examples include, but are not limited to, the production of the following: glass products made from manufactured glass; clay and pottery products; food and beverages; candy and other confectionery products; computer hardware; products made from rubber, plastic, or resin; converted paper and cardboard products; fabricated metal products made from semi-finished metals.

20.200.730 Manufacturing and Assembly, Heavy.

“Heavy Manufacturing and Assembly” means manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment, that cannot be integrated into the building design, or engaging in large-scale outdoor storage. any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious adjacent land uses, or

requires a significant amount of on-site hazardous chemical storage shall be classified as under this land use. This use shall include any packaging of the product being manufactured on-site.

Examples include, but are not limited to, the production of the following: large-scale food and beverage operations; lumber, milling, and planing facilities; aggregate, concrete, and asphalt plants; foundries, forge shops, open air welding, and other intensive metal fabrication facilities; chemical blending, mixing, or production, and plastic processing and production.

20.200.740 **Massage Parlor**

"Massage parlor" is a building or portion thereof or a place where massage is administered for compensation or from which a massage business or service for compensation is operated. "Massage parlor" does not include establishments where massage is administered in conjunction with: a) the practice of a medical doctor, chiropractor, dentist, osteopath, physical therapist or registered nurse; b) a state-approved massage school; or c) an athletic club or a full-service barber or beauty salon where not more than fifteen percent (15%) of floor space is used for massage activity. For purpose of this definition, a full service barber must at a minimum provide hair styling, including shampoos, and shave services; and a full service beauty salon must at a minimum provide services for hair styling, including shampoos, and facials.

20.200.750 **Miniwarehouse/ministorage**

"Miniwarehouse" is a warehouse divided into individual securable tenancies which tenancies are offered to the general public for use as storage space.

20.200.760 **Mixed Use**

Development that contains uses from two or more of the three major land use categories; residential, commercial, and industrial.

20.200.770 **Mobilehome**

"Mobilehome" is a structure transportable in one or more sections designed and equipped to contain one (1) living unit, to be used with or without a foundation system, when connected to required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. Mobilehome does not include a recreational vehicle or travel trailer. When installed on a foundation system (pursuant to Section 18851 of the California Health and Safety Code), a mobilehome shall be deemed a fixture and a real property improvement to the real property to which it is affixed.

20.200.780 **Mobilehome Lot**

"Mobilehome lot" is a portion of a mobilehome park or travel trailer park designated or used for the occupancy of one mobilehome, recreational vehicle, or travel trailer.

20.200.790 Mobilehome Park

"Mobilehome park" is any area or tract of land where two or more mobilehome lots are rented or leased or held out for rent or lease to accommodate mobilehomes used for permanent occupancy.

20.200.800 Neighborhood Business District

"Neighborhood Business District" means any area delineated as such on the Land Use/Transportation Diagram of the General Plan of the City of San Jose as amended.

20.200.810 Nuisance

"Nuisance" shall mean:

1. Any use of property contrary to the provisions of this Title or any condition of a Permit imposed pursuant to this Title.
2. Any act or omission which obstructs or causes substantial inconvenience to the public or any member thereof, in the course of, or by the manner of, the exercise of the right granted by a Development Permit.

20.200.820 Off-Sale, Alcoholic Beverages

"Off-sale" means the sale to consumers of alcoholic beverages in original, unopened packages for consumption off the premises where sold.

20.200.825 Off-Site Storm Water Runoff Treatment Facility

"Off-Site Storm Water Runoff Treatment Facility" is a storm water runoff treatment facility that is provided on a lot other than the lot occupied by the building or use for which the treatment is required.

20.200.830 Off-Street Parking Establishment

An "off-street parking establishment" is a parking facility which is not designed and used to serve the parking needs of a use occupying the same lot or site as the parking facility.

20.200.840 Outdoors

"Outdoors" means on or above the surface of the ground but not within a building which has a roof composed of weatherproof material and which is enclosed on at least sixty-five percent (65%) of its perimeter with exterior walls composed of weatherproof material.

20.200.850 Parcel

"Parcel" is synonymous with "lot" for purposes of this Title.

20.200.860 Parking Facility

A "parking facility" is any parking space, parking lot or parking structure used for the parking of licensed motor vehicles. A parking facility as defined shall be maintained in accordance with the requirements of Chapter 20.90 of this Title.

20.200.870 Passenger Vehicle

A "passenger vehicle" is any motor vehicle designed, used and maintained primarily for the transportation of persons for non-commercial purpose. A passenger vehicle does not include a motor vehicle designed and equipped for human habitation, excepting a motor vehicle to which a camper has been temporarily attached.

20.200.880 Personal Services

"Personal Services" includes establishments which provide non-medical services of a retail character to patrons which may involve the sale of goods associated with the service being provided. These establishments include beauty or barber shops, shoe repair shops, self-service laundries, tanning salons, tailoring establishments, interior decorating, clothing rental, portrait photography and diet and weight reduction centers.

20.200.890 Poolroom

"Poolroom" is a building or portion thereof having within its premises three or more pool tables or billiard tables, or combination thereof, regardless of size, and whether activated manually or by the insertion of a coin, token or other mechanical device.

20.200.895 Private Electrical Power Generation Facility

A "Private Electrical Power Generation Facility" is an electrical power generation facility that, regardless of fuel or energy source, is operated by a private property owner or lessee, and whose primary function is the provision of electricity to the permitted use(s) on the site the facility is located.

20.200.897 Private Instruction

"Private Instruction" shall mean instruction received for personal and professional enrichment and certificate programs. Examples of private instruction include, but are not limited to, training as a dental hygienist, medical assistant, paramedic, etc., as well as computer training and driver's training. Private Instruction does not include instruction received through a Trade or Vocational

School as defined in Section 20.200.1075 nor a Post-Secondary School as defined in Section 20.200.1065.

20.200.900 Processing Facility

A "processing facility" is a facility that involves methods such as sorting, compacting, flattening, baling, shredding, grinding, or crushing of recyclable material. Processing can also include the processing of collected recyclable materials into aggregate, building materials and other products. Processing may also involve composting and the decomposing of organic matter, including leaves, brush, wood waste and other organic waste in a controlled environment for reuse.

20.200.910 Provider

“Provider” shall mean the furnisher of gas, water, telephone, electricity or telecommunications services to inhabitants of the City through a franchise or other legal authority.

Telecommunications services includes, but is not limited to, the transmission of voice, data, video or other information by wire, radio, light and other electronic or electromagnetic systems.

20.200.940 Public Eating Establishment

"Public eating establishment" is a building or area where meals may be purchased and eaten. As an incident to the operation of a public eating establishment which is a bona fide public eating place, as defined in the California Business and Professions Code Section 23038, or its successor:

1. Any alcoholic beverage may be sold, offered for sale, or served to the patrons of such bona fide public eating place for consumption with their meals on the premises thereof;
2. Instrumental and vocal music may be provided for the listening pleasure of patrons, but no other entertainment may be provided. Such incidental music shall be considered incidental between the hours of 6:00 a.m. and 10:00 p.m. Any music after said times shall be considered an entertainment use.

20.200.950 Recreation, Commercial/ Indoor

“Commercial/ Indoor Recreation” includes such uses as a skating rink, bowling alley, paintball, children’s playland, health club, fitness centers and other similar indoor uses.

20.200.960 Recreation, Commercial/ Outdoor

“Commercial/ Outdoor Recreation” includes such uses as a swim or tennis club, miniature golf course, waterslide park and other similar outdoor uses.

20.200.970 Recreational Vehicle

"Recreational vehicle" is a vehicle, including motorhome, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy.

20.200.980 Recyclable Material

"Recyclable material" means materials which are segregated from other waste material for the purpose of recycling and includes, but is not limited to, paper, glass, metals, wood, plastics, yard wastes as defined in Section 9.10.380, bulky goods as defined in Section 9.10.040, and waste oil as defined in Section 9.10.370.

20.200.990 Recycling Facility

A "recycling facility" is a facility involved with the collecting, processing, and/or transferring of reusable or recyclable materials.

20.200.1000 Research and Development

A "research and development" facility is an establishment or facility engaged in industrial or scientific research, product design, development and testing, and limited manufacturing necessary for the production of prototypes.

20.200.1010 Residentially Zoned Property

"Residentially zoned property" means real property situate in any of the residential zoning districts as set forth in Chapter 20.30 of this Title or any Planned Development District (PD) in which residential uses are permitted.

20.200.1020 Residential District

"Residential District" means land located in, and the street area immediately in front of and across the street from, any areas zoned or used, in conformance with the provisions of this Title, for residential use in the City, including all residential zoning districts as set forth in Chapter 20.30 of this Title, and any Planned Development (PD) District in which residential uses are permitted.

20.200.1030 Residential Care Facility

"Residential Care Facility" is a facility licensed by the State of California where care, services or treatment is provided to persons living in a community residential setting.

20.200.1040 Residential Service Facility

"Residential service facility" is a residential facility, other than a Residential Care Facility or Single Housekeeping Unit, where the operator receives compensation for the provision of personal services, in addition to housing, including but not limited to, protection, supervision, assistance, guidance, training, therapy or other nonmedical care.

20.200.1050 Reverse Vending Machine

A "reverse vending machine" is a mechanical device which accepts one or more types of empty beverage containers, including aluminum cans, glass and plastic bottles, and cartons, and issues a cash refund or a redeemable credit slip with a value not less than the containers' redemption value.

20.200.1060 Satellite and Broadcast Reception Facility

"Satellite and broadcast reception facility" means satellite dishes, antenna and associated facilities which are used for the reception of transmission signals and which have no broadcast capabilities.

20.200.1065 School, Post secondary

"School, post secondary" shall mean an institution of higher learning where one is required to complete education earning a high school diploma, or equivalent, prior to admittance and is on the path to earning a college degree. This includes colleges, universities, as well as junior colleges, either public or private in nature.

20.200.1070 School Site

"School site" is a site that is operated as a primary or secondary school and which contains all improvements required by local, State, or federal regulations necessary for general primary or secondary academic instruction.

20.200.1075 School, Trade and Vocational

"School, trade and vocational" shall mean an establishment where training is received to learn a particular trade or craft that involves skilled labor. Trades and crafts include but are not limited to the various construction trades, auto mechanics, machining, HVAC installation/repair/maintenance and similar trades and crafts.

20.200.1080 Setback

"Setback" is the minimum distance by which buildings, structures, and parking must be separated from any lot line.

1. "Front setback" is measured from the front lot line.

2. "Rear setback" is measured from the rear lot line.
3. "Side setback" is measured from the side lot line(s).

20.200.1090 Setback Area, Front

- A. For an interior lot, the "front setback area" is the area which extends across the full width of the lot and from the front lot line along the street to a line defined by the front setback, excluding frontage area which is used primarily for ingress or egress to a flag lot; or
- B. For a residentially zoned corner lot, the "front setback area" is the area which extends across the full width of the lot and from the narrower lot line along a public street to a parallel line defined by the front setback line.

20.200.1100 Setback Area, Rear

- A. For an interior lot, the "rear setback area" is the area which extends across the full width of the lot and from the rear lot line to a parallel line defined by the rear setback distance; or
- B. For a residentially zoned corner lot, the "rear setback area" is the area which extends across the full width of the lot and from the lot line opposite the narrower lot line along a public street to a parallel line defined by the rear setback line.

20.200.1110 Setback Area, Side

- A. For an interior lot, the "side setback area" is that area which is neither a front setback area nor rear setback area; or
- B. For a corner lot,
 1. "Interior side setback area" is that area which extends from the lot line opposite the wider (larger) street frontage defined as the interior side lot line to a parallel line defined by the side setback; and
 2. "Corner side setback area" is that area which extends from the lot line along the wider street frontage to a parallel line defined by the side setback.

20.200.1120 Sidewalk Cafe

"Sidewalk cafe" is a portion of an eating and/or drinking establishment located on a public sidewalk or mall which functions as an extension of the use of the adjacent private property by an eating and/or drinking establishment. A sidewalk cafe is open to the sky except that it may have awnings or umbrellas. No portion of the sidewalk cafe shall be used for any purpose other than dining, drinking, and the associated circulation therein.

20.200.1130 Single Housekeeping Unit

"Single Housekeeping Unit" is the functional equivalent of a traditional family; whose members are a nontransient interactive group of persons jointly occupying a single dwelling unit, including the joint use of common areas and sharing household activities and responsibilities such as meals, chores and expenses.

20.200.1140 Site

"Site" is a contiguous area of land, including a lot or lots or a portion thereof, upon which a project is developed or proposed for development.

20.200.1150 Single Room Occupancy (SRO) Living Unit Facility

A "Single Room Occupancy (SRO) Living Unit Facility" is a residential facility where individual secure rooms, of a smaller size than normally found in multiple dwellings, are rented to a one or two-person household. SRO Living Units are provided for a weekly or monthly period of time, in exchange for an agreed payment of a fixed amount of money or other compensation based on the period of occupancy.

20.200.1160 Single Room Occupancy (SRO) Residential Hotel

A "Single Room Occupancy (SRO) Residential Hotel" is a commercial facility where individual secure rooms are rented to a one or two-person household. SRO Residential Hotel units are provided on a daily, weekly, or monthly basis, in exchange for an agreed payment of a fixed amount or money or other compensation based on the period of occupancy.

20.200.1162 Social Service

A "social service" is a service or activity undertaken to advance the welfare of citizens in need. A social service may include supporting office uses, supporting medical office or clinic uses, supporting vocational or trade training, supporting personal services and/or a food and goods distribution facility.

20.200.1163 Social Service Agency

A "Social Service Agency" is an agency that provides social services.

20.200.1165 Solar Photovoltaic Power

"Solar Photovoltaic Power" means electrical power generation through the utilization of photovoltaic cells, typically building-integrated, non-mechanical semiconductor devices that convert sunlight into direct current electricity.

20.200.1170 Specified Anatomical Areas

"Specified anatomical areas" are:

1. Less than completely and opaquely covered human genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola; and
2. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

20.200.1180 Specified Sexual Activities

"Specified sexual activities" are:

1. Human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, or sodomy; and
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

20.200.1190 Stand-By or Backup Electrical Power Generation Facility

“Stand-By or Backup Electrical Power Generation Facility” means an electrical power generation facility that is operated only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. Electrical generation facilities operating where an interruptible service contract has been executed are not considered Stand-By or Backup Electrical Power Generation Facilities.

20.200.1200 Stationary Peaking Power Plant

A “Stationary Peaking Power Plant” is an electrical power generation facility permanently installed on a foundation and whose main function is the provision of supplemental power to the electrical distribution system or transmission grid during periods of peak demand. The maximum number of annual hours of operation of a Stationary Peaking Power Plant is restricted by a Bay Area Air Quality Management District permit and typically does not exceed one thousand five hundred (1,500) hours. The typical useful life of a Stationary Peaking Power Plant is up to thirty (30) years.

20.200.1210 Story

"Story" is that portion of a building, excepting a cellar or basement, included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the roof

above. For purposes of this Title, floor shall mean the lower supporting surface of a structure which one can stand on regardless of height of ceiling.

20.200.1220 Story, Half

"Story, half" is a story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of each story.

20.200.1230 Street

"Street" is a public or private thoroughfare which affords principal means of access to abutting property.

20.200.1240 Structure

"Structure" is anything, except a fence less than seven feet (7') in height, which is constructed, erected or placed on a site, or under the ground or is attached or affixed to something having a permanent location on or under the ground. For the purposes of this Title, a structure may also be:

1. any object which cannot be moved by hand and has no power of mobility and which is intended to remain or remains on the site for more than seventy-two hours; or
2. any object which provides some form of shelter regardless of whether temporary or permanent in nature.

20.200.1250 Structure, Utility

"Utility Structure" shall mean any above ground structure, except an antenna or utility pole and associated appurtenances, which a Provider constructs, erects or places on a site, and is attached or affixed to something having a permanent location on or under the ground which is used to provide its services to customers and which:

1. Exceeds thirty-two (32) cubic feet total volume or minimum height of four (4) feet above grade; or
2. Contains any power generating equipment, regardless of size of the structure; or
3. Has the potential for creating environmental impacts such that it would not be exempt pursuant to the California Environmental Quality Act, as amended.

20.200.1260 Structural Alteration

"Structural alteration" is any change in the supporting members of a building, such as bearing walls, columns, beams, or girders.

20.200.1270 Swimming Pool

- A. "Above-ground swimming pool" is a swimming pool any part of which (except diving boards, slides and ladder rails) is more than twelve (12) inches above grade.
- B. "Built-in swimming pool" is a swimming pool no part of which (except diving boards, slides and ladder rails) is more than twelve (12) inches above grade.

20.200.1275 Temporary Stand-By or Backup Electrical Power Generation Facility

A "Temporary Stand-By or Backup Electrical Power Generation Facility" means an electrical power generation facility that is operated for and during a period of time not to exceed four (4) consecutive months in any twelve (12) month period and only during interruptions of electrical service from the distribution system or transmission grid due to circumstances beyond the operator's control. After this four (4)-month maximum time period, a Temporary Stand-By or Backup Electrical Power Generation Facility is disassembled and removed. A Temporary Stand-By or Backup Electrical Power Generation Facility possesses no permanent foundation. These facilities, by definition, must meet the performance standards set forth in this Title. Electrical generation facilities operating where an interruptible service contract has been executed are not considered a Temporary Stand-By or Backup Electrical Power Generation Facility.

20.200.1280 Transfer Facility

- A. Recycling

A "recycling transfer facility" is defined as a facility that receives recyclable materials, as defined in this Chapter, typically from small collection facilities, and commercial vehicles for the purpose of storing, handling, batching and baling, and/or sorting prior to transferring to another facility. Such a facility may be involved with recycling-related collection activities not allowed at small collection facilities.

- B. Solid Waste

A "solid waste transfer facility" is defined as a facility that receives primarily solid waste materials, from commercial vehicles for the purpose of storing and handling prior to transferring to another facility. Such a facility may have limited recapture of recyclable materials as defined in this chapter.

20.200.1285 Transportable Peaking Power Plant

A "Transportable Peaking Power Plant" is a transportable electrical power generation facility brought on-site on flatbed trailers and left on the trailer or placed on steel skids for a temporary period, which can be for a particular peak season or from season-to-season. A Transportable Peaking Power Plant is not permanently installed and its main function is the provision of supplemental power to the electrical distribution system or transmission grid during periods of

peak demand. The maximum number of annual hours of operation of a Transportable Peaking Power Plant is restricted by a Bay Area Air Quality Management District permit and typically does not exceed five hundred (500) hours. A Transportable Peaking Power Plant is typically on-site for up to three (3) years, but one (1) or more such power plants can be installed on-site for a given peak period, then removed.

20.200.1290 Travel Trailer

"Travel trailer" is a vehicle other than a motor vehicle, which is designed or used for human habitation and which may be moved upon a public highway without a special permit or chauffeur's license or both, without violating any provision of the California Vehicle Code.

20.200.1300 Travel Trailer Park

"Travel trailer park" is any area or tract of land or a separate designated section within a mobilehome park where one or more mobilehome lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles used for recreational or emergency occupancy.

20.200.1310 Utility Facility

Any building, structure, plant, equipment or use for the provision and operation of utility services including, but not limited to water, sewage disposal, telephone service, telegraph service, communications services, telecommunications or cable television. Utility facility does not include electrical power generation facilities but does include electrical transmission facilities.

20.200.1320 Vending Facility

"Vending facility" means any equipment, apparatus, trailer, vehicle, cart or other conveyance, other than a vending machine, located outdoors, from which a vendor displays, sells, offers for sale, gives away, or offers to give away anything of value including any food, beverage, goods, wares, merchandise or services.

20.200.1330 Vending Machine

"Vending machine" means any unattended self-service device which, upon insertion of a coin, coins, or token, or by similar means, dispenses anything of value including any food, beverage, goods, wares, merchandise or services.

20.200.1340 Vendor/Vending

- A. "Vendor" means any person or persons, including corporations as well as natural persons, who engage in the activity of vending.

- B. "Vending" means any activity by any person involving the display, sale, offering for sale, offering to give away, or giving away of anything of value including any food, beverage, goods, wares, merchandise or services.

20.200.1360 Vehicle Work Station

A "vehicle work station" is a space intended to accommodate a single motor vehicle together with the persons, equipment and tools required for the repair or servicing of said vehicle provided that if said space contains a service rack, lift or pit, it is no larger than 600 square feet, and if it does not contain a service rack, lift or pit, it is no larger than 400 square feet.

20.200.1405 Williamson Act Contract

"Williamson Act contract" is a contract entered into and approved by resolution of the Council for the preservation of agricultural land pursuant to the provisions of Sections 51200 through 51297.4 of the Government Code of the State of California.

20.200.1410 Wireless Communications Antenna

A "Wireless Communications Antenna" is an antenna and associated mechanical equipment that is used for a wireless communications network.

20.200.1420 Wireless Communications Antenna, Building Mounted

A "Wireless Communication Antenna, building mounted" is an antenna and associated mechanical equipment that is used for a wireless communications network and:

1. Is mounted to an existing building or structure; and
 - a. The antenna and its related building alterations both meet one of the following criteria:
 - i. They project no more than ten (10) feet above the building surface on which the antenna and related building alterations are installed or located; or
 - ii. They project no more than ten (10) feet plus an additional foot of height for every ten (10) feet that the antenna is set back from the building parapet to a maximum height of fifteen (15) feet; or
 - iii. The antenna and its associated mechanical equipment is attached to an existing monopole or other utility structure with no increase to the overall height of either the monopole or other utility structure.

20.200.1370 Yard

"Yard" is an open space other than a court on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provided in this Title.

20.200.1380 Yard, Front

"Front yard" is that yard which extends:

1. Across the full width of the lot; and
2. From the front line of the lot to the front of the building.

20.200.1390 Yard, Rear

"Rear yard" is that yard which extends:

1. Across the full width of the lot; and
2. From the rear line of the lot to the rear of the building.

20.200.1400 Yard, Side

"Side yard" is that yard which is neither front yard nor rear yard.

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